CA1
J
-C56
PROVINCIAL
LIBRARY
MANITOBA

CORRESPONDENCE

REPORTS OF THE MINISTERS OF JUSTICE

AND

ORDERS IN COUNCIL

UPON THE SUBJECT OF

PROVINCIAL LEGISLATION

1867–1884.

COMPILED UNDER THE DIRECTION OF THE MINISTER OF JUSTICE,

BY

W. E. HODGINS, M.A.,

Barrister-at-Law, of the Department of Justice.

OTTAWA:
PRINTED BY MACLEAN, ROGER & CO., WELLINGTON STREET.
1886.

PROVINCIAL LIBRARY MANITOBA

SCHEDULE OF CONTENTS.

Correspondence, Reports and Orders in Council upon the subject of:

Page.

1. Powers of Dominion Government with respect to disallowance of Acts of Provincial Legislatures 1

2. Ministerial responsibility in connection with disallowance of Provincial Acts 10

3. Appointment of Queen's Counsel by Lieut.-Governors of Provinces 26

4. Provincial Legislation:—

(1) Ontario, 1867-1884 34-221

(2) Quebec, 1867-1884 222-331

(3) Nova Scotia, 1867-1884 332-430

(4) New Brunswick, 1867-1884 431-575

(5) Manitoba, 1870-1884 576-694

(6) British Columbia, 1872-1884 695-835

(7) Prince Edward Island, 1873-1884 836-921

(8) N.-W. Territories, 1876-1884 922-935

Table of Acts 938-977

Index 979

Correspondence, Reports of the Minister of Justice and Orders in Council, upon the subject of the powers of the Dominion Government with respect to the disallowance of Acts of the Provincial Legislatures.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th June, 1868.

The undersigned begs to submit for the consideration of Your Excellency, that it is expedient to settle the course to be pursued with respect to the Acts passed by the Provincial Legislatures.

The same powers of disallowance as have always belonged to the Imperial Government with respect to the Acts passed by Colonial Legislatures, have been conferred by the Union Act on the Government of Canada. Of late years Her Majesty's Government has not, as a general rule, interfered with the legislation of colonies having representative institutions and responsible government, except in the cases specially mentioned in the instructions to the Governors, or in matters of Imperial, and not merely local interest.

Under the present constitution of Canada, the General Government will be called upon to consider the propriety of allowance or disallowance of Provincial Acts much more frequently than Her Majesty's Government has been with respect to colonial enactments.

In deciding whether any Acts of a Provincial Legislature should be disallowed or sanctioned, the Government must not only consider whether it affects the interests of the whole Dominion or not; but also, whether it be unconstitutional, whether it exceeds the jurisdiction conferred on Local Legislatures, and, in cases where the jurisdiction is concurrent, whether it clashes with the legislation of the General Parliament.

As it is of importance that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law and the general interests of the Dominion imperatively demand it, the undersigned recommends that the following course be pursued:

That on receipt, by Your Excellency, of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he, with all convenient speed, do report as to those Acts which he considers free from objection of any kind; and if such report be approved by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

That he make a separate report, or separate reports, on those Acts which he may consider:—

1. As being altogether illegal or unconstitutional;
2. As illegal or unconstitutional in part;
3. In cases of concurrent jurisdiction, as clashing with the legislation of the General Parliament;
4. As affecting the interests of the Dominion generally:

And that in such report or reports he gives his reasons for his opinions.

That, where a measure is considered only partially defective, or where objectionable, as being prejudicial to the general interests of the Dominion, or as clashing with its legislation, communication should be had with the Provincial Government with respect to such measure, and that, in such case, the Act should not be disallowed, if

the general interests permit such a course, until the Local Government has an opportunity of considering and discussing the objections taken, and the Local Legislatures have also an opportunity of remedying the defects found to exist.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

Copy of an Order approved by His Excellency the Governor General in Council, on 9th June, 1868.

The Committee have had under consideration the annexed memorandum from the Honorable the Minister of Justice and Attorney-General, on the subject of the powers of disallowance of the Acts of Local Legislatures possessed by the General Government of the Dominion, and, submitting his views and recommendations respecting the course which should be pursued on all occasions where the Acts of the Local Legislatures shall be transmitted to the Governor General, they respectfully advise that the same be approved and adopted.

(Signed) WM. H. LEE,
Clerk Privy Council.

The Governor General to the Secretary of State for the Colonies.

(Copy.—No. 22.)

GOVERNMENT HOUSE, OTTAWA, 11th March, 1869.

20th February, 1869—801.

MY LORD,—I have the honor to enclose a report from the Minister of Justice upon the Acts passed by the Legislature of the Province of Ontario, in the last Session, and to request that Your Lordship will, in accordance with the suggestion of the Privy Council of the Dominion of Canada, take the questions arising in reference to them into your consideration, and cause the opinion of the law officers of the Crown to be obtained.

I have, &c.,

(Signed) JOHN YOUNG.

The Right Honorable
The Earl Granville, K.G., &c., &c., &c.

The Governor General to the Secretary of State for the Colonies.

(Copy.—No. 23.)

GOVERNMENT HOUSE, OTTAWA, CANADA, 11th March, 1869.

MY LORD,—I beg leave to draw your attention to the following remarks which a reference to my despatch, No. 22, of this date, will show have already derived color from actual occurrences, and which point to the probability of misapprehension and future difficulty, if a remedy be not speedily devised and applied, for the prevention of uncertainty and probable conflict between rival authorities.

Previous to the Union of the Provinces, the Governor of each Province either assented to, or withheld Her Majesty's assent to, or reserved for Her Majesty's assent, such Bills passed by the Legislature as he thought proper, and he was specially enjoined by the Royal Instructions to reserve certain classes of Bills therein specified. The same practice is continued by the Union Act with respect to legislation of the Parliament of Canada.

The Act provides that the Lieutenant-Governor of each Province may reserve Bills for the consideration of the Governor General, but there is no provision by which the latter is to take Her Majesty's pleasure on such legislation. The Royal Instructions are also silent on this point. In the absence of instructions, I presume that I should exercise the power of assent to, or reservation of, Bills, under the advice of the Privy Council of this Dominion.

Now, although the power of the Provincial Legislatures are considerably more limited, than those possessed by the same Legislatures before the Union, yet they have jurisdiction in many cases to which the Royal Instructions would seem to apply: I mean that a Provincial Legislature may pass a Bill under the present Constitution which, if it were passed by the Parliament of the Dominion, would have to be reserved under my instructions.

If the 7th paragraph of the Instructions be examined, it will be seen that it is quite competent for a Local Legislature to pass Bills coming within the 2nd, 5th, 6th, 7th and 8th clauses therein mentioned. Again, doubts have already arisen as to the respective jurisdictions of the Local and General Legislatures.

The Local Legislatures are naturally inclined to legislate on the same subjects of public interest, and to the same extent as they did before the Union; and, in case of doubt, to give themselves the benefit of the doubt, and construe their powers in the larger sense.

I am informed, however, that on the whole, the local legislation has been satisfactory, and I think there will be little difficulty in managing any questions that may arise, if some principle of action be laid down by Her Majesty's Government, and steadily adhered to.

At present, *novitate regni*, of the Dominion, and while it has no associations, political or historical, no buttresses of prestige and tradition, a difficulty is likely to be more felt, and more serious than probably it will be in after times.

As yet, the tendency of public men must naturally be to look, as heretofore, rather to sectional than to general interests. By degrees, no doubt, this provincialism will wear away; but, in the meantime, and under the circumstances, questions of moment having already arisen, it would, I submit, be desirable, in a public point of view, as well as satisfactory to myself, to have some specific instructions in my capacity, as an Imperial officer, as to my course:

1st. When an Act of a Provincial Legislature relates to any of the classes of subjects mentioned in the 7th paragraph of the Royal Instructions.

2nd. When it is, in my opinion, unconstitutional, or in excess of the power of the local body.

I would beg leave to suggest that until the legislation of several years of the general and local bodies has practically settled their respective jurisdictions, it would be well for me to transmit annually to the Colonial Office the sessional volumes of statutes passed by each of them, with a report from the Minister of Justice, and such remarks as may occur to myself to be deserving your attention.

It is worthy of consideration whether it would not be expedient to establish a tribunal with powers analogous to those of the Supreme Court of the United States, for the decision of all questions of constitutional law and conflict of jurisdiction.

The British North America Act (sec. 101) empowers the Parliament of Canada to establish a General Court of Appeal; but I am advised that Imperial Legislation will be required to enable the Dominion Parliament to establish a Court with original jurisdiction over such subjects.

The organization of a Court of Appeal is, I am told, likely to engage the attention of the Parliament here, at the coming Session, and that then the whole subject of the best means of determining these respective jurisdictions, and of settling constitutional questions generally, will probably be discussed in all its bearings. I propose in such case, to address you again on the subject.

I have, &c.,

(Signed) JOHN YOUNG.

The Right Honorable
Earl Granville, K.G., &c., &c., &c.

Earl Granville to Sir John Young.

(CANADA.--No. 85)

DOWNING STREET, 8th May, 1869.

SIR,—I have the honor to acknowledge the receipt of your despatch, No. 23, of the 11th ultimo, asking for instructions as to the course which you should pursue with regard to any Act of the Provincial Legislatures, which might relate to any of the classes of subjects mentioned in the seventh paragraph of the Royal Instructions, or which might, in your opinion, be unconstitutional, or in excess of the power of the local body.

The prohibitions in the seventh paragraph of Royal Instructions, with one qualification, rest on grounds of Imperial policy, and therefore the Governor General of the Dominion is not at liberty, even on the advice of his Ministers, to sanction or assent to any Provincial law in violation of them. He would indeed be bound to instruct the Lieutenant-Governor of the Province not to give such assent.

The qualification to which I have above referred is this, that, while the Governor General is not at liberty to sanction the passing of a law making any donation or gratuity to himself, it would be for his Ministers to consider whether they should advise him to consent to a donation by the Province to the Lieutenant-Governor, and he would be at liberty to follow that advice.

With regard to the second point: If the Governor General were advised by his Ministry to disallow any Provincial Act as illegal or unconstitutional, it would, in general, be his duty to follow that advice, whether or not he concurred in their opinion. If he were advised by his Ministry to sanction any Act which appeared to him illegal, it would be his duty to withold his sanction and refer the question to the Secretary of State for instructions.

The same course might be taken if the Act recommended for his sanction by his Ministers appeared gravely unconstitutional; but it is impossible to relieve the Governor General from the duty of judging, with respect to each particular case, whether the objection to an Act, not of doubtful legality, is sufficiently grave as, under all circumstances, to warrant a refusal to act at once on the advice tendered to him.

With regard to your remark, that it is worthy of consideration whether it would not be expedient to establish a tribunal for the decision of all questions of constitutional law and conflict of jurisdiction, I see no reason for the establishment of such a tribunal. Any question of this kind could be entertained and decided by the local courts, subject to an appeal to the Judicial Committee of the Privy Council, and it does not appear in what respect this mode of determination is likely to be inadequate or unsatisfactory.

I have, &c.,

GRANVILLE.

Governor General,
The Right Honorable Sir JOHN YOUNG, Bart., G.C.B.

Copy of Circular from Sec'y of State for Provinces to the Lieutenant-Governors of Ontario, Quebec, Nova Scotia and New Brunswick.

O. S. S. P., 17th June, 1868.

SIR,—I have the honor, by command of the Governor General, to transmit to Your Excellency herewith, for the information of the Government of the Province of ————, a copy of an Order in Council, and of the memorandum of the Honorable the Minister of Justice therein referred to, on the subject of the powers of disallowance of the Acts of the Local Legislature possessed by the Government of the Dominion.

I have, &c.,

(Signed) HECTOR L. LANGEVIN.

Copies of Replies to Circular received from Lieutenant-Governors of Ontario, New Brunswick and Nova Scotia.

PROVINCIAL SECRETARY'S OFFICE, TORONTO, 22nd June, 1868.

SIR,—I have the honor to acknowledge the receipt of your letter of the 17th instant, enclosing a copy of a report made by the Honorable the Minister of Justice to His Excellency the Governor General in Council, with respect to the proposed method of disallowing Acts passed by the Provincial Parliament.

I have, &c.,

(Signed) THOS. C. PATTESON,

Assistant Secretary.

The Secretary of State, Ottawa.

GOVERNMENT HOUSE, FREDERICTON, NEW BRUNSWICK, 22nd June, 1868.

SIR,—I have the honor to acknowledge the receipt of your despatch of the 17th instant, transmitting, for the information of the Government of the Province of New Brunswick, a copy of an Order in Council, and of the memorandum of the Honorable the Minister of Justice therein referred to, on the subject of the powers of disallowance of the Acts of the Local Legislature possessed by the Government of the Dominion.

I have, &c.,

(Signed) J. HARDING.

The Secretary of State for the Provinces, Ottawa.

GOVERNMENT HOUSE, HALIFAX, NOVA SCOTIA, 23rd June, 1868.

No. 560. Date, 17th June, 1868.

SIR,—I have the honor to acknowledge the receipt of your despatch of the number and date noted in the margin.

I have, &c.,

(Signed) JOHN H. FRANCKLYN,

Administrator of the Government.

The Secretary of State for the Provinces, Ottawa.

Correspondence, Reports of the Minister of Justice, and Orders in Council, upon the general question of Ministerial Responsibility in connection with the disallowance of Acts of the Provincial Legislatures.

The Governor General to the Earl of Carnarvon.

(No. 67.)

OTTAWA, 11th March, 1875.

MY LORD,—I have the honor to enclose, for Your Lordship's information, an extract from the Votes and Proceedings of the House of Commons of the Dominion, from which you will see that an Address has been voted to Her Most Gracious Majesty on the subject of the School Act recently passed by the Legislature of the Province of New Brunswick.

March 10, 1875.

I have, &c.,

(Signed) DUFFERIN.

The Earl of Carnarvon,
&c., &c., &c.

Resolution of New Brunswick Legislature.

HOUSE OF ASSEMBLY, FREDERICTON, Saturday, 4th March, 1874.

Whereas petitions, numerously signed, have been presented to this House, during the last and the present Sessions of the Legislature, praying that such amendments may be made in the Common School Act, 1871, as will secure to Her Majesty's Roman Catholic subjects of this Province, schools, generally known as "Separate Schools;"

And whereas, this House continues to hold the opinion that any system of education, under the control and supervision of the State, should grant to all the people of the Province, similar and equal rights in respect of education, without distinction of class or creed;

And whereas, by the provisions of the British North America Act, 1867, if a system of Separate Schools is established, it shall forever thereafter be beyond the power of the Legislature to interfere with or repeal the Acts creating such a system;

And whereas, certain exclusive rights, powers and jurisdictions have been vested in the Legislature of this Province, guaranteed to it by the terms and provisions of the "British North America Act, 1867," the enjoyment of which is essential to the welfare of this Province, and the harmonious working of the constitution:

Resolved, That after careful consideration of the said petitions, and whilst affirming that various important changes may advantageously be made, from time to time, in the Acts relating to education, whereby the burdens imposed by the said Acts may be lightened or made to fall more equitably, this House is of opinion that no changes in the said Acts should be made, whereby special rights and privileges in respect of denominational education shall be granted to any class of persons in this Province; and, further:

Resolved, That in the opinion of this House no Acts should be done or passed whereby the jurisdiction and powers of the Legislature, established by the British North America Act, 1867, shall be impaired or curtailed, without the sanction of the people of this Province, previously expressed at the polls; and therefore:

Resolved, That this House regrets it cannot comply with the prayer of the said petitions; and, further, Resolved, That this House most respectfully, but firmly, maintains and submits that no Acts should be done or passed at any time by the Parliament of the United Kingdom of Great Britain and Ireland, or by the Parliament of the Dominion of Canada, to impair, curtail, alter or withdraw the said rights, powers and jurisdictions, or any of them, without the requisition or consent of this Legislature for that purpose first made or obtained, and signified by Address from the Legislature of this Province.

(Signed) GEO. T. BLISS,
Clerk.

The Governor General to the Earl of Carnarvon.

No. 96.

GOVERNMENT HOUSE, OTTAWA, 13th April, 1875.

MY LORD,—With reference to my despatch, No. 67, dated 11th March, 1875, informing Your Lordship that an Address to Her Majesty had been voted by the House of Commons, on the subject of the School Act recently passed by the Legislature of the Province of New Brunswick, I have now the honor to transmit this Address to Your Lordship, for presentation to Her Most Gracious Majesty.

I have also the honor to enclose a printed copy of the Address.

I have, &c.,
(Signed) DUFFERIN.

Address of House of Commons to Her Majesty.

TO THE QUEEN'S MOST EXCELLENT MAJESTY:

MOST GRACIOUS SOVEREIGN:

We, Your Majesty's most dutiful and loyal subjects, the Commons of the Dominion of Canada, in Parliament assembled, humbly approach Your Majesty for the purpose of representing:

That in the opinion of this House, legislation by the Parliament of the United Kingdom encroaching on any powers reserved to any one of the Provinces by "The British North America Act, 1867," would be an infraction of the Provincial Constitutions; and that it would be inexpedient and fraught with danger to the autonomy of each of the Provinces, for this House to invite such legislation.

That on the 29th day of May, 1872, the House of Commons adopted the following resolution:—

"This House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick, as to remove any just ground of discontent that now exists."

That this House regrets that the hope expressed in the said Resolution has not been realized.

That we most humbly pray that Your Majesty will be graciously pleased to use the influence of Your Majesty with the Legislature of New Brunswick to procure such a modification of the said Act as shall remove such grounds of discontent.

Ordered, That the said Address be engrossed.

On motion of Mr. Cauchon, an Address was voted to His Excellency the Governor General, praying him to transmit the foregoing Address of this House to Her

Majesty, in such a way as His Excellency may deem fit, in order that the same may be laid at the foot of the Throne.

Ordered, That the said Address be engrossed and presented to His Excellency by such members of this House as are of the Honorable the Privy Council.

The Earl of Carnarvon to the Governor General.

(CANADA—No. 248.)

DOWNING STREET, 18th October, 1875.

MY LORD,—I duly received and considered Your Lordship's despatch, No. 96, of the 13th of April, communicating to me an Address voted by the House of Commons of Canada to the Queen, on the subject of the New Brunswick Schools Act of 1871, and I have thought it convenient to defer my reply to it until your return to Canada.

The Address was laid at the foot of the Throne, and the Queen was pleased to receive it very graciously, but I was not able to advise Her Majesty to take any action respecting it.

2. I concur with the representation of the Address, that legislation by the Imperial Parliament, curtailing the powers vested in a Province by the British North America Act, 1867, would be an undue interference with the Provincial constitutions, and with the terms on which the Provinces consented to become members of the Dominion. And holding, as I do, this opinion, while I cannot but feel that if I were to recommend the Queen to intervene directly in this matter, by advising that Legislature to legislate in any particular direction, I might be deemed to counsel an interference with the system of government established by the Act of Union, not greatly differing from that which the Address deprecates.

3. For this reason I have not felt myself at liberty to advise Her Majesty to take any action with respect to this Address. At the same time, there can be no impropriety in my expressing the strong hope which I entertain, that, as in other British communities, the majority of the population in New Brunswick, which, through its representatives, controls the educational system of the Province, may be disposed to adopt such modifications of the existing rules as may render them less unacceptable to those who, from conscientious reasons, have felt themselves obliged to protest against the system now in force.

I cannot, in conclusion, consistently with my duty, refrain from observing that as education is one of the subjects expressly and exclusively reserved to the Provincial Legislatures by the "British North America Act, 1867," it is for the serious consideration of those in New Brunswick, who take an active part in relation to it, whether there can be any advantage, and whether there must not be serious inconvenience, in bringing under public discussion in the Dominion Legislature, a controverted question which may possibly engender much heat and irritation, and over which it has no jurisdiction.

I have, &c.,

(Signed) CARNARVON.

Governor General, &c., &c., &c.

(No. 89.)

The Governor General to the Earl of Carnarvon.

GOVERNMENT HOUSE, OTTAWA, 7th April, 1875.

MY LORD,—I have the honor to inform Your Lordship that the Honorable Mr. Blake, member for South Bruce, on the 22nd of February, gave notice that he would move, in the House of Commons, the following resolutions:—

"That by the 56th clause of the British North America Act, 1867, it is in effect enacted, that when the Governor General assents to a Bill in the Queen's name, the Queen in Council may, within two years after its receipt, disallow such Act.

"That by the 90th clause of the said statute it is enacted, that the above provision shall extend and apply to the Legislatures of the several Provinces as if re-enacted, with the substitution of the Lieutenant-Governor for the Governor General, of the Governor General for the Queen, of one year for two years, and of the Province, for Canada.

"That in the opinion of this House the power of disallowance of Acts of a Local Legislature conferred by the said Statute is thereunder vested in the Governor General in Council, and that His Excellency's Ministers are responsible to Parliament for the action of the Governor General in exercising or abstaining from the exercise of the said power.

"That by a letter dated 13th December, 1872, the Registrar of the Privy Council of the United Kingdom conveyed to the Colonial Office the opinion of the Lord President of the Council, that the power of confirming or disallowing Local Acts is, under the said Statute, vested in the Governor General, acting under the advice of his constitutional advisers.

"That notwithstanding the premises, by a despatch dated 30th June, 1873, the Secretary for the Colonies, in response to an application from the Governor General for instructions on the subject, informed His Excellency that he was advised by the law officers of the Crown that the question of disallowance or allowance of Local Acts is a matter in which His Excellency must act on his own individual discretion, and in which he cannot be guided by the advice of his responsible Ministers.

"That this House feels bound, in assertion of the constitutional rights of the Canadian people, to record its protest against, and dissent from, the said instruction, and to declare its determination to hold its Excellency's Ministers responsible for his action in the exercise of the power so conferred by the said Statute."

An opportunity of bringing the subject before the House did not occur until Wednesday, 31st March, when Mr. Blake moved the adoption of the resolutions of which he had given notice; but after a debate, in the course of which Mr. Mackenzie and Sir J. A. Macdonald expressed their assent to the constitutional doctrines laid down by Mr. Blake, that gentleman withdrew his motion.

I have the honor to enclose a copy of the parliamentary report of the debate that took place on that occasion.

I have, &c.,

(Signed) DUFFERIN.

The Right Honorable
The Earl of Carnarvon,
&c., &c., &c.

(No. 91.)

The Governor General to the Earl of Carnarvon.

GOVERNMENT HOUSE, OTTAWA, 8th April, 1875.

MY LORD,—I have the honor, at the request of my Privy Council, to transmit to Your Lordship a copy of a report made to me by a Committee of that body, on the question of Ministerial responsibility in connection with the disallowance by the

Governor General, of Acts passed by the Legislatures of the several Provinces of the Confederation.

I have, &c.,

(Signed) DUFFERIN.

The Right Honorable
The Earl of Carnarvon,
&c., &c., &c.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 8th March*, 1875.

The Committee of Council have had under consideration the question of Ministerial responsibility in connection with the disallowance of Acts passed by the Local Legislatures of the Confederate Provinces.

Lord Kimberley, late Secretary of State for the Colonies, in a despatch dated 30th June, 1873, having reference to the disallowance of certain Acts passed by the New Brunswick Legislature, with regard to the School system in that Province, makes the following statements:—

"I am advised—

"1. That these Acts of the New Brunswick Legislature are, like the Acts of 1871, within the powers of that Legislature.

2. "That the Canadian House of Commons cannot constitutionally interfere with their operation by passing a resolution, such as that of the 14th of May last. If such a resolution were allowed to have effect, it would amount to a virtual repeal of the section of the British North America Act, 1867, which gives the exclusive right of legislation in these matters to the Provincial Legislature.

"3. That this is a matter in which you must act on your own individual discretion, and on which you cannot be guided by the advice of your responsible Ministers of the Dominion."

Section 90 of the British North America Act, 1867, reads as follows:—

"The following provisions of this Act respecting the Parliament of Canada, namely: the provisions relating to Appropriation and Tax Bills, the recommendation of money votes, the assent to Bills, the disallowance of Acts, and the signification of pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada."

The power of disallowance is here clearly vested in the Governor General, in the same manner as the power of assent or disallowance is vested in Her Majesty by sections 56 and 57, that is, in the Queen in Council.

The Committee, therefore, humbly submit that the passage above quoted would, if acted upon, destroy all Ministerial responsibility and impose on the Governor General a responsibility not intended by the statute, and at variance with the constitution. It would also be impracticable in operation, as some competent legal authority must examine the statutes passed by the Local Legislatures, to enable the Governor General to arrive at an intelligent decision. If this could be done by importing the services of any one outside the Privy Council, it would establish a subsidiary body not contemplated by the Constitution. If done by the Minister, or Ministers, then Ministerial responsibility at once attaches.

That this view is taken by Her Majesty's Privy Council, the following letter, written by Mr. Reeve, Clerk of the Council, and dated 13th December, 1872, clearly shows:—

Mr. Reeve to Mr. Holland.

PRIVY COUNCIL OFFICE, 13th December, 1872.

SIR,—I have submitted to the Lord President of the Council your letter of the 9th instant, transmitting a copy of a despatch from the Governor General of Canada, with enclosures, respecting an Act passed by the Provincial Legislature of New Brunswick with reference to common schools, and requesting to know whether the opinion of the Lords of the Judicial Committee of the Privy Council on this question can properly be obtained.

It appears to His Lordship that, as the power of confirming or disallowing Provincial Acts is vested by the statute in the Governor General of the Dominion of Canada, acting under the advice of his constitutional advisers, there is nothing in this case which gives to Her Majesty in Council any jurisdiction over this question, though it is conceivable that the effect and validity of this Act may, at some future time, be brought before Her Majesty, on an appeal from the Canadian Courts of Justice.

This being the fact, His Lordship is of opinion that Her Majesty cannot with propriety be advised to refer to a Committee of the Council in England, a question which Her Majesty in Council has at present no authority to determine, and on which the opinion of the Privy Council would not be binding on the parties in the Dominion of Canada.

I have, &c.,

(Signed) HENRY REEVE,

Registrar Privy Council.

HENRY T. HOLLAND, Esq.

The Committee advise that a copy of this minute be transmitted by Your Excellency for the consideration of Her Majesty's Government.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd December, 1875.

The undersigned, to whom has been referred the despatch of the 5th November, 1875, from the Earl of Carnarvon to His Excellency upon the minute of Council of the 8th March, 1875, on the question of Ministerial responsibility in connection with the disallowance of Provincial Acts, begs to report as follows:—

The minute was evoked by a despatch from Earl Kimberley, dated 30th June, 1873, in which His Lordship, upon the advice of the Law Officers of the Crown in England, instructed His Excellency that the question whether a Provincial Act should be disallowed, was a matter in which His Excellency should act on his own individual discretion, and in which he could not be guided by the advice of his responsible Ministers.

In order to a clear understanding of the question raised, a brief preliminary statement is requisite.

The powers of Provincial Legislatures are, by their constitution, limited to certain subjects of a domestic character, so that their legislation can affect only Provincial, and at most Canadian interests.

Provincial Acts are, to the extent to which they may transcend the competence of the Legislature, inoperative *ab initio*. There is no power to "allow" them, nor can any attempted "allowance" give them vitality, so that void Acts left to their operation remain void thereafter.

Provincial Acts are, to the extent to which they may be within the competence of the Legislature, operative *ab initio*, and so continue unless and until disallowed.

Lord Carnarvon, in the despatch now under review, states that in his opinion the constitution of Canada does not contemplate any interference with Provincial legislation on a subject within the competence of the Local Legislatures.

Without attempting to expound the principles on which the power of disallowance should be exercised, the undersigned may be permitted to observe, that the considerations involved are of a more complex and delicate character than might, at first sight, be perceived.

So long ago as 9th June, 1868, an Order in Council was passed on the subject, adopting a memorandum from the Minister of Justice expressing the following views:—

"The same powers of disallowance as have always belonged to the Imperial Government with respect to Acts passed by Colonial Legislatures have been conferred by the Union Act on the Government of Canada. Of late years Her Majesty's Government has not, as a general rule, interfered with the legislation of colonies having representative institutions and responsible Government, except in the cases specially mentioned in the instructions to the Governors, or in matters of Imperial, and not merely local interest.

"Under the present constitution of Canada, the General Government will be called upon to consider the propriety of allowance or disallowance of Provincial Acts, much more frequently than Her Majesty's Government has been, with respect to Colonial enactments.

"In deciding whether any Act of a Provincial Legislature should be disallowed or sanctioned, the Government must not only consider whether it affects the interests of the whole Dominion or not, but also whether it be unconstitutional, whether it exceeds the jurisdiction conferred on Local Legislatures, and, in cases where the jurisdiction is concurrent, whether it clashes with the legislation of the General Parliament."

Without discussing how far this memorandum accurately states the circumstances under which the power of disallowance may be exercised, and referring only to the cases to which Lord Carnarvon more especially alludes, it will be found that in their disposition numerous grave and difficult questions may arise. There may be a Provincial jurisdiction for a particular purpose, exercised in fact, though not in form, for the accomplishment of another purpose exclusively within Canadian jurisdiction.

It is very often doubtful whether an Act is within or beyond the competence of the Local Legislature. Frequently, local Acts are mainly valid, but yet contain some provision beyond the competence of the Legislature.

In the character of the enactments beyond the competence of the Legislature there is a vast difference, since, though all such provisions are alike void, yet some Acts might be left to their operation without inconvenience, while to take the same course as to others might produce serious embarrassment and confusion. It is, in each particular case, a question to be decided whether the Act, through containing some void provisions, should be disallowed or left to its operation, and in practice a considerable number of such Acts are so left.

It thus appears that whatever be the range of the power of disallowance, and the principles on which it should be exercised, it must often be very difficult to decide whether, on the whole, any particular Act should be disallowed or left to its operation.

The question at issue is by whom, and under what responsibilities, the power of disallowance is to be exercised.

The power of disallowance of Canadian statutes is, by sec. 56 of the British North America Act, 1867, vested in the Queen in Council.

By sec. 90 of the same Act this provision is extended and applied to each Province as if it were re-enacted, and is so made applicable in terms thereto, with the substitution, among other things, of the Governor General for the Queen.

The result is, that by the express words of the Act, the power of disallowance of Provincial statutes is vested in the Governor General in Council—a phrase which, under the 13th section of the Act, means "the Governor General, acting by and with the advice of the Queen's Privy Council for Canada."

If the British North America Act had not contained these express provisions it would seem that, upon the plain principles of the constitution, the result would have been the same.

Supposing that the Act had vested the power of disallowance of Canadian statutes in Her Majesty, not adding the words "in Council," it will not be contended that the power so given could be constitutionally exercised otherwise than under the advice of Her Majesty's Ministers, who would be responsible for Her Majesty's action, and, by parity of reasoning, a power of disallowance of Provincial statutes given to the Governor could be exercised only under the advice of his Ministers, who would be responsible for his action.

It results from preceding observations that the only contingencies which can arise are,—

1. That the Governor should propose to disallow a Provincial statute without or against the advice of his Ministers.

2. That Ministers should propose to disallow a Provincial statute without the assent of the Governor.

The position taken by the Council is, that neither of these things can be done; that, the power being vested in the Governor in Council, any action taken must be accomplished by Order in Council, and that a Governor who thinks it necessary that a Provincial Act should be disallowed must find Ministers who will take the responsibility of advising its disallowance; while Ministers who think it necessary that a Provincial Act should be disallowed must resign unless they can secure the assent of the Governor to its disallowance—Ministers being in every case responsible to Parliament for the course taken.

Lord Carnarvon suggests that the question is one in respect of which it is more in accordance with the spirit of the constitution that a rigid rule of action should not be established.

But the undersigned ventures to submit that the question involves simply the application to a plain statute of the well-settled rules of construction, and the application to a plain case, of the fundamental principle of the constitution.

It is to the spirit as well as to the letter of the constitution that Council have appealed, and grave would be their responsibility were they to agree that either spirit or letter contemplates a rule of action so lax as to justify, or even to render possible, the violation of its fundamental principle.

Lord Carnarvon refers to a correspondence (annexed to his despatch) with an Australian colony upon the subject of the exercise of the prerogative of pardon, and suggests that the rule there propounded is applicable to the present case.

It seems needless to complicate the question in hand by any extended discussion of the views expressed in that correspondence, which will come more fitly under review in connection with another despatch now under the consideration of Council.

Were the undersigned to assume (without admitting) the accuracy, as applied to Canada, of the propositions there advanced, he would yet observe that, whether sound or unsound, they are founded upon one main consideration, which is supposed to involve exceptional treatment of the question, namely, that "the Governor, to whom personally the Queen delegates a very high prerogative (that of pardon), cannot in any way be relieved from the duty of judging for himself in every case in which that prerogative is proposed to be exercised; and this the more, since it may be

invoked in cases 'in which matters of Imperial interest or policy, or the interest of "other countries or colonies, are involved.'"

It is argued that this consideration authorizes and indeed requires the Governor to act in the exercise of that particular prerogative in some manner and to some extent differently from the mode in which he is ordinarily to act, and investing him with exceptional power, necessarily diminishes *pro tanto* the responsibility of his Ministers.

But however this may be, the consideration referred to does not apply to the case in hand.

There is here no question of a high prerogative of Her Majesty delegated by Her, under special commission to Her confidential officer, and capable of being used by that delegate in matters which may involve Imperial or foreign interests.

The power here is not vested in, and consequently could not be delegated by Her Majesty.

The power here—a power, the exercise of which affects Provincial and Canadian interests—is, by an Act of Imperial Parliament, vested in the Governor in Council, and the undersigned maintains with confidence that to the exercise of a power so vested, it is impossible to apply the principle propounded as applicable to the case of the prerogative of pardon. Nor is it possible to deal with this power on principles different from those which apply to the exercise of the other powers of government conferred in like terms by the same statute. Thus in effect the discussion involves the whole question of responsible government, and if the rule proposed by Lord Carnarvon is conceded, it would be impossible to resist its application to our entire system.

That rule is, that "The Governor General, after having had recourse to the advice of his Ministers, whom the Parliament holds answerable for advising him as to all public acts (though not in all cases for the acts themselves), may properly be required to give his own individual decision as to allowance or disallowance."

Lord Carnarvon proceeds to say that the constitutional remedy for any prolonged difference of opinion between the Governor General and his advisers would be the same in this as in any other case of a similar nature, and that, holding as he does, the opinion that the constitution of Canada does not contemplate any interference with Provincial Legislation on a subject within the competence of the Local Legislature, by the Dominion Parliament, or, as a consequence, by the Dominion Ministers, he assumes that those Ministers would not feel themselves justified in retiring from the administration of public affairs on account of the course taken by the Governor General on such a subject—it being one for which the Dominion Parliament cannot hold themselves responsible, though it may demand to know what advice they gave.

The undersigned ventures to submit that the plan proposed by Lord Carnarvon is not in accordance with the Constitution; that His Excellency's Ministers (whose recommendation is essential to action) are responsible, not merely for the advice given, but also for the action taken; that the Canadian Parliament has the right to call them to account, not merely for what is proposed, but for what is done—in a word, that what is done is practically *their* doing.

The importance to the people of the advice given by Ministers is in precise proportion to its effectiveness. So long as the course pursued is dependent on the advice given, responsibility for the advice is responsibility for the action, and is, therefore, valuable; but it is the action which is really material; and to concede that there may be action contrary to advice would be to destroy the value of responsibility for the advice—to deprive the people of their constitutional security for the administration, according to their wishes, of their own affairs—to yield up the substance, retaining only the shadow of responsible government.

The undersigned agrees with the view of Lord Carnarvon that, if it be the right and the duty of the Governor to act in any case contrary to the advice of his Ministers, they cannot be held responsible for his action, and should not feel themselves justified, on account of it, in retiring from the administration of public affairs. But

these are results which render it difficult to come to the conclusion that any such right or duty can properly devolve upon the Governor; because they show that his action would be an exercise of power for which the free people over whom he rules could find no man whom they could call to account.

The undersigned suggests that Lord Carnarvon should be informed that while Council concur in his view that His Excellency's correct appreciation of public feeling, and the thorough understanding which exists between His Excellency and his advisers are of themselves sufficient to render improbable any serious difference of opinion on the subject of the disallowance of a Provincial Statute, and while they highly appreciate the great consideration shown by Lord Carnarvon in explaining in so clear a manner his conception of the principle applicable to the question under discussion, it appears to them to be essential to the good administration of affairs, and to the maintenance of the proper relations between the Governor General, the Ministers and the Parliament, that there should be a correct understanding as to their relative rights and duties, and that for the reasons given in this report they remain of the opinion that no action can be taken on the question whether a Provincial statute should be disallowed, save by and with the advice of His Excellency's Ministers, who are, and of right ought to be, responsible to Parliament for such action.

(Signed) EDWARD BLAKE.
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th February*, 1876.

The Committee of the Privy Council have had under consideration the report, hereunto annexed, from the Honorable the Minister of Justice, dated 22nd December, 1875, on the despatch from the Honorable Her Majesty's Secretary of State for the Colonies, of the 5th November, 1875, on the question of Ministerial reponsibility in connection with the disallowance of Provincial Acts, and they respectfully submit their concurrence in the views expressed in the said Report, and advise that a copy thereof and of this minute be transmitted by Your Excellency for the consideration of Her Majesty's Government.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

(CANADA, No. 145.)

The Earl of Carnarvon to the Governor General.

DOWNING STREET, 1st June, 1876.

MY LORD,—I have the honor to acknowledge the receipt of Your Lordship's despatch, No. 96, of the 6th of April, enclosing a report of the Committee of the Privy Council, concerning a report by the Minister of Justice on the question of Ministerial responsibility in connection with the disallowance of Provincial Acts.

2. This question is, I admit, by no means free from difficulty, and, as I observed in my despatch of the 5th of November, 1875, could, if any practical necessity for an authoritative decision of it should arise, I apprehend, only be finally decided by an appeal to the Judicial Committee of the Privy Council, from a Colonial judgment

on the construction of the British North America Act. As, however, no such necessity exists, or, at all events, is urgent at the present moment, I think there may be advantage in my inviting your Ministers to consider a view of the question to which my attention has been directed—it being understood that I am not now pressing this view in opposition to that of your Government.

3. It has been suggested that the language of that Act, which was very carefully chosen, for the purpose of preventing doubts on constitutional points, does not sustain the opinion that the power and responsibility of the Dominion Government are as complete with respect to the specially reserved subjects of Provincial legislation, as to other questions.

4. In sections 10 and 13 the distinction between "the Governor General" and "the Governor General in Council" is carefully drawn, and this distinction is closely observed throughout the Act. It may, therefore, be urged, that if "the Governor General in Council" had been intended in section 90, that expression would have been used, especially as the object of the section was to declare in what manner the powers, which, after much negotiation, had been reserved to the Provincial Legislatures, were to be exercised.

5. It is further suggested that if the Dominion Legislature, or those members of it who, for the time being, are selected as the advisers of the Governor General, could be said to have the power of controlling the enactment, or operation, of Provincial Acts, the consequence would be a virtual repeal of the section of the "British North America Act, 1867," which gives the exclusive right of Legislation in certain matters to the Provincial Legislatures.

6. I regret that the records of this Department do not show (and I do not sufficiently trust my own recollection on the subject) what was the precise intention of the provision requiring that the Governor General should assent to or disallow Provincial Acts. But it would seem not improbable that the intention may have been to entrust this function to an authority in Canada not directly representing that majority of the Dominion Parliament from whose jurisdiction these particular questions had been accepted. I should be glad to have the opinion of your Ministers on this point.

7. Even if, however, there were nothing to be said in answer to the general proposition of the able and careful memorandum prepared by your Minister of Justice, I should still be inclined to doubt whether, practically, the logical consequences should or would be so closely adhered to as to involve the resignation of Ministers—at all events, in the large class of cases to which he has referred, as not raising serious questions.

I have, &c.,

(Signed) CARNARVON.

To the Governor General,
&c., &c., &c.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th September, 1876.

Upon the despatch of the Earl of Carnarvon to His Excellency, of 1st June, 1876, in reply to that of His Excellency, of 6th April, upon the question of Ministerial responsibility in connection with the disallowance of Provincial Acts referred to the undersigned, he begs to report as follows:—

It appears difficult to see how the question could be brought by appeal to the Judicial Committee of the Privy Council from a Colonial judgment on the construction of the Act, unless some Provincial Act were attempted to be disallowed by the Gov-

ernor, acting independently and not through the agency of Ministers, in which case it is possible that the issue might arise between individuals, as to whether the Act was in effect disallowed.

This statement of the only process by which a judgment of a Colonial court appealable to the Judicial Committee could be obtained, would seem to show that, practically, the question can not be settled in that way.

With reference to the views suggested to His Lordship, and which he invites His Excellency's Ministers to consider, the undersigned will not here repeat several of the arguments in his former report, which appear to him to bear upon these suggestions. He refers to that report, to which he would add the following observations:—

Upon the suggestion that if the Governor General in Council had been intended in section 90, that expression would have been used, it is to be observed that the phraseology of that section was apparently adopted for the sake of brevity, with the view of avoiding a repetition, *mutatis mutandis*, of the clauses to which it refers; and there does not appear to the undersigned to be any reason to conclude that the enactment, substituting the words "The Governor General" for the words "The Queen," can be held, in the particular case in which the latter words are followed by the words "in Council," to mean that the words "in Council" are to be eliminated from the clause as applied to the Provinces. It may be added that the other, which is the grammatical construction, appears also to accord with the general intention of the clause.

It is suggested that if a Canadian Minister had the power of controlling the enactment or operation of Provincial Acts the consequence would be a virtual repeal of the section of the British North America Act giving the exclusive right of legislation in certain matters to Provincial Legislatures, and it is suggested as not improbable, that the intention may have been to entrust the functions of disallowance to an authority in Canada not directly representing the majority of the Canadian Parliament, from whose jurisdiction these questions had been excepted. The undersigned may observe that this, through professing to be an argument *ab inconveniente* against a particular construction, is in strictness rather an argument for a change in the existing law, than for the adoption of the proposed construction of that law. But the undersigned cannot agree to the propositions advanced.

These arguments occur to him: The Parliament of Canada is composed of representatives of the seven Provinces, each of which has, in its Provincial character, like political rights. Ministers, whose tenure of office depends upon their retaining the confidence of a Parliament so composed, are not likely to abuse a power, the exercise of which would obviously be jealously watched by representatives from all the Provinces, since each is alike interested in the maintenance of Provincial rights, and therefore in the principles upon which the power of disallowance is exercised. For the same reason any abuse, by Ministers, of this power would be quickly followed by the application of the constitutional remedy by Parliament. The experience of nearly ten years during which this power has been exercised, does not indicate that the apprehended evils will follow. The objection taken would apply to the power given to the Queen in Council to disallow Canadian laws, whereby, to follow the same line of argument, power is given to an authority directly representing the majority of the British Parliament, to control the enactment or operation of Canadian Acts affecting subjects, the rights of legislating on which has been vested in the Canadian Parliament to the practical exclusion of the British Parliament. But there is in the mode for which we contend a much greater check on the exercise by the Governor in Council of the power of disallowing Provincial Acts, than exists upon the exercise by the Queen in Council of the like power with reference to Canadian Acts, since the advisers of the Crown are not in the latter, as they are in the former case, responsible to the Canadians.

Without at all times asserting that the system is perfect, and waiving the question whether there should be any power of disallowance of local enactments, it may be observed that the plan contended for by the Canadian Government appears to be,

at any rate, better than the proposed alternative. If, under that alternative, the Governor should act against the advice of Ministers, he must act either on his own unaided judgment, or upon the counsel of others, not his constitutional advisers, or upon instructions from the Colonial Office.

Which of these plans should be adopted? The first may be said to be impossible. The Governor must have some assistance in such matters. The second supposes an unconstitutional plan of secret counsellors, which cannot be sustained. The third would place the disallowance of Provincial Acts in the hands of the Secretary of State for the Colonies, or the Law Advisers of the Crown in England, which cannot possibly have been intended by the framers of the clause.

In none of these plans is there any responsibility to the Canadian people for the Governor's action, nor, as the undersigned ventures to affirm, any likelihood that he will dispose of the important and difficult questions to be solved, as prudently and correctly as under the advice of his responsible Ministers, while the existence of the suggested power would be calculated to do mischief, as weakening the great principle of responsible government in the general, and in the particular, as lessening the responsibility of Ministers for action which, notwithstanding their diminished accountability, they would be likely still largely to determine.

(Signed) EDWARD BLAKE.

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 19th September*, 1876.

The Committee of the Privy Council have had under consideration the despatch of the Right Hon. H. M. Secretary of State for the Colonies, No. 145, of the 1st June, 1876, in answer to that of His Excellency the Governor General of the 6th of April, upon the question of Ministerial responsibility in connection with the disallowance of Provincial Acts.

They have also had before them the Report, hereunto annexed, from the Hon. the Minister of Justice, to whom the said Despatch was referred, and they respectfully submit their concurrence therein, and advise that a copy thereof, and of this minute, be transmitted for the consideration of Her Majesty's Government.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

(No. 49.)

The Deputy of the Governor General to the Earl of Carnarvon.

OTTAWA, 20th September, 1876.

MY LORD,—Adverting to the correspondence noted in the margin, I have the honor to transmit herewith a copy of a Report of a Committee of the Privy Council, expressing their concurrence in a memo. by the Minister of Justice on the question of Ministerial responsibility in connection with the disallowance of Provincial Acts of Parliament.

I have, &c.,

(Signed) W. B. RICHARDS,

Deputy Governor.

The Earl of Carnarvon,
&c., &c., &c.

The Earl of Carnarvon to the Governor General.

(No. 318.)

DOWNING STREET, 31st October, 1876.

MY LORD,—I have the honor to acknowledge the receipt of the Deputy Governor's despatch, No. 49, of the 20th September, enclosing a report of the Privy Council, with a memorandum by the Minister of Justice, in answer to certain points which were discussed in my despatch, No. 145, of the 1st June, relating to the question of Ministerial responsibility in connection with the disallowance of Provincial Acts.

2. I do full justice to the force of Mr. Blake's argument, that, as the Canadian Parliament is composed of representatives from the several Provinces of the Dominion, any undue interference by Ministers with the power of Provincial legislation would be jealously watched; and it is also true that, through the Ministers being responsible to the Canadian people, a very important check is imposed on the exercise of the power of disallowing Provincial Acts. On the other hand, I should feel much difficulty in modifying the opinion which I expressed in my despatch of the 1st June, respecting the interpretation to be attached to the words "Governor General," in section 90 of the "British North America Act, 1867," as it still appears to me that the term "Governor General" and "Governor General in Council" are, throughout that Act, as distinct from one another as "The Queen" and "The Queen in Council" are. I am bound, however, to state that such construction of the Act has had the support of high authorities in this country, and whilst, therefore, I feel justified in inclining to the view which I have expressed, it is one upon which, for the same reason, I could not be prepared to insist strongly. I am, moreover, hardly satisfied that Mr. Blake has fully established his argument in regard to the courses which are open to the Governor in case he acts contrary to the advice of his Ministers.

3. Mr. Blake contends, with much force, that after having received such advice, it is impossible for him to act on his own unaided judgment; but as to this, I would observe that in the case suggested, his judgment would not, in fact, have been unaided. Having had recourse to the advice of his Ministers, and having fully heard them, the Governor General would be thoroughly instructed as to the merits of the case, and would then be competent to judge of the course which it would be advisable for him to take; he would be acting under the advise of his Ministers, notwithstanding that he might not feel himself able to act according to that advice. I think this view of the position deserves consideration, though I should not wish to be understood as now laying down any definite rule on a subject, with respect to which you are aware that I incline to think it more in accordance with the true spirit of the Constitution, that no unyielding rule should be maintained.

4. But although I may be unable to agree entirely in Mr. Blake's conclusion (and I need hardly say that my sense of his great ability and experience causes me to differ from him, even in a limited degree, with much reluctance), there can be no doubt that the attention which the whole question has received, has been of much value, and I am glad to be able to agree with Mr. Blake that the experience of the past ten years does not indicate the probability of any grave difficulty occurring.

I have, &c.,

(Signed) CARNARVON.

The Governor General,
&c., &c., &c.

(No. 258.)

The Governor General to the Earl of Carnarvon.

OTTAWA, 25th November, 1876.

MY LORD,—Adverting to Your Lordship's despatch, No. 318, 31st October, and to previous correspondence, upon the question of Ministerial responsibility in connec-

tion with the disallowance of Provincial Acts, I have the honor of transmitting herewith a copy of a further Order of my Privy Council, embodying a report of the Minister of Justice upon the subject.

I have, &c.,

(Signed) DUFFERIN.

The Earl of Carnarvon,
&c., &c., &c.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 16th November, 1876.

Upon the despatch of the Earl of Carnarvon of 31st October, 1876, referring to the memorandum of the undersigned, of 6th September, upon the subject of the disallowance of Provincial Acts, the undersigned begs to report as follows:—

Lord Carnarvon, referring to the argument that it is impossible for the Governor to act against the advice of his Ministers on his own unaided judgment, observes that in the case suggested, the Governor's judgment would not, in fact, have been unaided; that having recourse to the advice of his Ministers, and having fully heard them, he would be thoroughly instructed as to the merits of the case, and would then be competent to judge of the course which it would be advisable for him to take, and that he would be acting under the advice of his Ministers, notwithstanding that he might not feel himself able to act according to that advice.

The undersigned ventures to suggest that it can hardly be assumed that the Governor is aided by his Ministers' advice in coming to a conclusion adverse to that advice; it seems to him that in the case put the Governor is acting rather against than under the advice of his Ministers, and that his judgment may, without impropriety, be called unaided, since his conclusion is based, not on his Ministers' views, which he overrules, but on opposite views evolved by himself alone.

The undersigned, who is very sensible of the kindness of Lord Carnarvon's language, has thought it due to His Lordship to make this statement of the sense in which the phrase was used.

It still appears to him that, even apart from the constitutional question, the practical difficulty is insuperable; but his main position throughout has been that under the letter and spirit of the constitution, Ministers must be responsible for the Governor's action—a position obviously untouched by the criticism to which he has referred.

While the undersigned is unable to alter his conclusions, he does not think he can usefully add to, or reiterate, his arguments; nor, indeed, does he understand Lord Carnarvon to intend a prolongation of the correspondence.

He regrets that the discussion has not resulted in an agreement, but he ventures to hope that it has, at any rate, decreased the probability of future difficulty on a question of very grave importance.

(Signed) EDWARD BLAKE,
M. J.

Copy *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 21st *November*, 1876.

The Committee of Council have had under consideration the despatch of the Right Honorable the Earl of Carnarvon, of 31st October, 1876, No. 318, referring to the memorandum of the Honorable the Minister of Justice, of 6th September, upon the subject of the disallowance of the Provincial Acts.

The Honorable the Minister of Justice, to whom this despatch has been referred, reports as follows:—

"Lord Carnarvon, referring to the argument that it is impossible for the Governor to act against the advice of His Ministers on his own unaided judgment, observes, that in the case suggested, the Governor's judgment would not, in fact, have been unaided; that having had recourse to the advice of his Ministers, and having fully heard them, he would be thoroughly instructed as to the merits of the case, and would then be competent to judge of the course which it would be advisable for him to take; and that he would be acting *under* the advice of his Ministers, notwithstanding that he might not feel himself able to act according to that advice.

"The undersigned ventures to suggest that it can hardly be assumed that the Governor is aided by his Ministers' advice in coming to a conclusion adverse to that advice; it seems to him that, in the case put, the Governor is acting rather *against* than *under* the advice of his Ministers; and that his judgment may, without impropriety, be called unaided, since his conclusion is based, not on his Ministers' views, which he overrules, but on opposite views evolved by himself alone.

"The undersigned, who is very sensible of the kindness of Lord Carnarvon's language, has thought it due to His Lordship to make this statement of the sense in which the phrase was used.

"It still appears to him that, even apart from the constitutional question, the practical difficulty is insuperable; but his main position throughout has been that, under the letter and the spirit of the constitution, Ministers must be responsible for the Governor's action—a position obviously untouched by the criticism to which he has referred.

"While the undersigned is unable to alter his conclusions, he does not think that he can usefully add to, or reiterate his arguments; nor, indeed, does he understand Lord Carnarvon to intend a prolongation of the correspondence.

"He regrets that the discussion has not resulted in an agreement, but he ventures to hope that it has, at any rate, decreased the probability of future difficulty on a question of very grave importance."

The Committee recommend that a copy of this minute, which embodies the report of the Minister of Justice, in which they concur, be transmitted to Her Majesty's Secretary of State for the Colonies.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

(No. 6.)

The Earl of Carnarvon to the Governor General.

DOWNING STREET, 4th January, 1877.

MY LORD,—I have the honor to acknowledge the receipt of your despatch, No. 258, of the 21st of November, enclosing a copy of a further Order of the Privy Council of Canada, in reply to my despatch, No. 318, of 31st October, upon the question of Ministerial responsibility in connection with the disallowance of Provincial Acts.

I have, &c.,

(Signed) CARNARVON.

The Governor General,
&c., &c., &c.

Correspondence, Reports of the Minister of Justice, and Orders in Council upon the subject of the appointment of Queen's Counsel by Lieutenant-Governors of Provinces.

Lord Lisgar to the Earl of Kimberley.

(No. 1.)

OTTAWA, 4th January, 1872.

MY LORD,—I have the honor to enclose, for Your Lordship's consideration, a report drawn up by the Honorable the Minister of Justice (Sir John A. Macdonald) on a question which has been raised as to the power of appointing Queen's Counsel for the Provinces.

2. I shall feel obliged if Your Lordship will have the goodness to procure the opinion of the Law Officers of the Crown, and communicate to me your decision on the question of prerogative.

3. Questions will probably be put upon the subject to the Ministers soon after the commencement of the approaching Session of Parliament, *i.e.*, soon after the middle of next month.

I have, &c.,

(Signed) LISGAR.

The Right Honorable
The Earl of Kimberley,
&c., &c., &c.

Report of the Hon'l the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd January, 1872.

The undersigned has the honor to report to Your Excellency, that the question has been raised by the Government of the Province of Nova Scotia as to whether they have the power of appointing Queen's Counsel for the Province,* their opinion being that they have no such power.

The undersigned is of opinion that, as a matter of course, Her Majesty has directly, as well as through Her Representative, the Governor General, the power of selecting from the bars of the several Provinces Her own Counsel, and, as *fons honoris*, of giving them such precedence and pre-audience in Her Courts as She thinks proper.

It is held by some that the Lieutenant-Governors of the Provinces, as they are not now appointed directly by Her Majesty, but by the Governor General, under the British North America Act, 1867, clause 58, do not represent her sufficiently to exercise the Royal prerogative, without positive statutory enactment.

This seems to have been the view of Her Majesty's Government in 1864, when they refused to confer the pardoning powers on the Lieutenant-Governors. (See despatch of Mr. Cardwell of 3rd December, 1864; also Lord Granville's despatch of

---

* See Nova Scotia Statutes, 37 Victoria, 1874, chapters 20 and 21; also, Statutes of Canada, 40th Victoria, chapter 3. See also *In re precedence of Ritchie, Q.C.*, Russell & Chesley, N. S. Reports, vol. II, pp. 450-501, and *Lenoir vs. Ritchie*, Supreme Court Reports, Canada, vol. III, pp. 575-640.

24th February, 1869). On the other hand, it is contended that the 64th and 65th clauses continue, to the Lieutenant-Governors, the powers of appointing Queen's Counsel, which they exercised while holding commissions under the Great Seal of England.

Reference is also made to the 63rd section, by which the Lieutenant-Governors of Ontario and Quebec appoint Attorneys-General, and the Lieutenant-Governor of Quebec also a Solicitor-General.

However this may be, it will be seen that by the 92nd clause of the Act it is provided that "the Legislature of each Province may make laws in relation to the administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts."

Under this power, the undersigned is of opinion that the Legislature of a Province, being charged with the administration of justice and the organization of the Courts, may, by statute, provide for the general conduct of business before those Courts; and may make such provisions with respect to the Bar, the management of criminal prosecutions by Counsel, the selection of those Counsel, and the right of pre-audience, as it sees fit. Such enactment must, however, in the opinion of the undersigned, be subject to the exercise of the Royal prerogative, which is paramount, and in no way diminished by the terms of the Act of Confederation. As the matter affects Her Majesty's prerogative, the undersigned would respectfully recommend that it be submitted to the Right Honorable the Secretary of State for the Colonies, for the opinion of the Law Officers of the Crown, and for Her Majesty's decision thereon.

The questions for opinion would seem to be:

(1.) Has the Governor General (since 1st July, 1867, when the Union came into effect) power, as Her Majesty's representative, to appoint Queen's Counsel?

(2.) Has a Lieutenant-Governor, appointed since that date, the power of appointment?

(3.) Can the Legislature of a Province confer by Statute on its Lieutenant-Governor the power of appointing Queen's Counsel?

(4.) If these questions are answered in the affirmative, how is the question of precedence or pre-audience to be settled.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

The Earl of Kimberley to Lord Lisgar.

(No. 21.)

DOWNING STREET, 1st February, 1872.

MY LORD,—In compliance with the request contained in your despatch, No. 1, of the 4th January, I have taken the opinion of the Law Officers of the Crown on the questions raised therein, with regard to the power of appointing Queen's Counsel in the Provinces forming the Dominion. I am advised that the Governor General has now power, as Her Majesty's representative, to appoint Queen's Counsel, but that a Lieutenant-Governor, appointed since the Union came into effect, has no such power of appointment.

I am further advised that the Legislature of a Province can confer by Statute on its Lieutenant-Governor the power of appointing Queen's Counsel; and, with respect to precedence or pre-audience in the courts of the Province, the Legislature

of the Province has power to decide as between Queen's Counsel appointed by the Governor General and the Lieutenant-Governor, as above explained.

I have, &c.,

(Signed) KIMBERLEY.

Governor General
The Right Hon. Lord Lisgar, G.C.B., G.C.M.G.

The Under Secretary for Provinces to Under Secretary of State for Canada.

OTTAWA, 8th April, 1872.

SIR,—In compliance with your order of reference of the 8th inst., I have the honor to transmit to you herewith copies of all correspondence of record in this Department relating to the appointment of Queen's Counsel, as called for by the House of Commons in their Address of the 7th inst.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary of State for the Provinces.

E. PARENT, Esq.,
Under Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 28th September, 1872.

The undersigned has the honor to report that it appears by the Ontario *Official Gazette* of the 16th March last, the Lieutenant-Governor of that Province appointed the following gentlemen to be Queen's Counsel:—

Daniel McMichael,	of Osgoode Hall,	Barrister-at-Law.
William Proudfoot	do	do
Christopher Salmon Patterson	do	do
Edmund Burke Wood	do	do
John Anderson	do	do
Samuel Hume Blake	do	do
Thomas Moss	do	do

The undersigned being of opinion that, in the absence of legislation on the subject, the Lieutenant-Governor of a Province of the Dominion had not, since the 1st July, 1867, the right to exercise the Royal prerogative in the appointment of Queen's Counsel, but that such power was vested in the Governor General, as Her Majesty's representative, made a report to that effect, and His Excellency, the late Governor General, transmitted such report to the Secretary of State for the Colonies, for the purpose of obtaining the opinion of the Law Officers of the Crown on the subject.

By a despatch dated 1st February last, Lord Kimberley informed Lord Lisgar that the Governor General had the power, but that a Lieutenant-Governor, appointed since the Union, had not the power of appointment.

Under the circumstances, great doubt must exist as to the validity of the commissions issued to the gentlemen named.

By the law of Upper Canada, Queen's Counsel can, in certain cases, at the request of a judge of the Superior Courts, perform certain judicial duties, such as the trial of civil and criminal cases. Their authority to act might be disputed, and if it were eventually decided to be illegal, a failure of justice would be the consequence. Under these circumstances, as the gentlemen mentioned are fully qualified to perform the duties of Her Majesty's counsel, the undersigned begs leave to recommend that commissions be issued by the Government of Canada to those gentlemen, or to such as may desire to receive them.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd October*, 1872.

On a memorandum, dated 28th September, 1872, from the Honorable the Minister of Justice, reporting that it appears by the Ontario *Official Gazette* of the 16th of March last, that the Lieutenant-Governor of that Province appointed the following gentlemen to be Queen's Counsel:—

Daniel McMichael, of Osgoode Hall, Esq., Barrister-at-Law.
William Proudfoot, Esq., Barrister-at-Law.
Christopher Salmon Patterson, Esq. do
Edmund Burke Wood, Esq. do
John Anderson, Esq. do
Samuel Hume Blake, Esq. do
Thomas Moss, Esq. do

The Minister states that being of the opinion that, in the absence of legislation on the subject, the Lieutenant-Governor of a Province of the Dominion had not, since the 1st July, 1867, the right to exercise the Royal prerogative in the appointment of Queen's Counsel, but that such power was vested in the Governor General, as Her Majesty's representative, he made a Report to that effect, and His Excellency, the late Governor General, transmitted such report to the Secretary of State for the Colonies, for the purpose of obtaining the opinion of the Law Officers of the Crown on the subject.

That by a despatch dated 1st February last, Lord Kimberley informed Lord Lisgar that the Governor General had the power, but that a Lieutenant-Governor appointed since the Union came into effect, had not the power of appointment.

That under the circumstances great doubt must exist as to the validity of the commissions issued to the gentlemen named.

That by the law of Upper Canada, Queen's Counsel can, in certain cases, at the request of a Judge of the Superior Courts, perform certain judicial duties, such as the trial of civil and criminal cases. That their authority to act might be disputed, and that if it were eventually decided to be illegal, a failure of justice would be the consequence.

That under these circumstances, as the gentlemen mentioned are fully qualified to perform the duties of Her Majesty's Counsel, the Minister of Justice recommends that commissions be issued by the Government of Canada to those gentlemen, or to such as may desire to receive the same.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

The Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 26th October, 1872.

SIR,—I have the honor to transmit herewith a copy of an Order in Council, dated the 23rd instant, having reference to the appointment of Queen's Counsel for the Province of Ontario, and to invite the attention of the Dominion Government thereto.

I have, &c.,

(Signed) W. P. HOWLAND.

The Honorable
The Secretary of State for the Provinces.

COPY *of a Minute of Council approved by His Excellency the Lieutenant-Governor, the 23rd day of October, A.D.*, 1872.

The Committee of Council would respectfully call Your Excellency's attention to the fact that some of the gentlemen whom Your Excellency appointed Queen's Counsel for Ontario, on the 16th March last, have, during the present month, received from the office of the Honorable Secretary of State for Canada, letters in the following form :—

"DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 7th October, 1872.

"SIR,—I have the honor to inform you that the question having been raised in the Province of Nova Scotia as to where the power of appointing Queen's Counsel rested since the Union of the Provinces, His Excellency the Governor General, on the 4th January last, obtained, through the Right Honorable the Secretary of State for the Colonies, the opinion of the Law Officers of the Crown in England on the subject. These officers advised that the Governor General has now the power, as Her Majesty's representative, to appoint Queen's Counsel, but that a Lieutenant-Governor appointed since the Union came into effect has, in the absence of legislation, no such power of appointment.

"Under these circumstances, and to remove all possible doubt as to the legality of your status as one of Her Majesty's Counsel for the Province of Ontario, I am commanded by His Excellency the Governor General to inform you that a commission will be issued under the Great Seal of Canada, appointing you Queen's Counsel for Ontario, should you desire it.

"I have, &c.,

"(Signed) E. PARENT,
"*Under Secretary of State.*"

The Committee regret that the Government of Canada, entertaining the view that the opinion of the Law Officers, referred to in this letter, was applicable to Ontario, should not have thought fit to transmit a copy of it for Your Excellency's information. Although Your Excellency's Government is of opinion that Your Excellency is invested with the power to make such appointments without legislation, yet had they been made aware of the view of the Law Officers they would have thought it proper to propose the legislation requisite for the removal of any possible doubt on the subject; and, having now become aware of it, it is their intention to propose such legislation during the Session which is to commence within a few

weeks. It appears to the Committee that grave inconveniences and complications may arise from the proposed action of the Government of Canada.

The Committee entertain the view that appointments of this description fall properly within the Local and not within the Federal jurisdiction, and they trust that, having regard to their expressed intentions as to legislation, the Government of Canada may see fit to abstain at present from issuing the proposed commissions.

Should that Government, however, be of opinion that, notwithstanding the proposed legislation, the power of issuing such commission would remain with, and should be exercised by His Excellency the Governor General, it appears to the Committee that, before acting on that view, the opinion of the Judicial Committee of the Privy Council should be taken on a joint case to be argued on behalf of the respective Governments.

The Committee purposely abstain from entering into any discussion of the constitutional point, but they are bound to state that, in their opinion, the proposed action involves questions of local and federal jurisdiction far wider than the single question under discussion, and this renders them more anxious that the course they propose should commend itself to His Excellency the Governor General.

The Committee advise that Your Excellency should communicate this minute of Council to the Secretary of State for the Provinces.

Certified.

(Signed) J. G. SCOTT,
Clerk Executive Council, Ontario.

25th October, 1872.

The Secretary of State for Provinces to Lieutenant-Governor of Ontario.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 28th October, 1872.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 26th instant, covering a copy of an Order of your Executive Council, dated the 23rd instant, having reference to the appointment of Queen's Counsel for the Province of Ontario.

Your despatch and its enclosures will be brought, without delay, under the notice of the Governor General in Council.

I have, &c.,

(Signed) JOSEPH HOWE,
Secretary of State for the Provinces.

The Hon. W. P. HOWLAND, C.B.,
Lieutenant-Governor,
Toronto.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 13*th December*, 1872.

The Committee of the Privy Council, to whom was referred the despatch of the Lieutenant-Governor of Ontario, dated 28th October, 1872, covering a minute of the Executive Council of that Province, on the subject of the appointment of Queen's Counsel, beg leave to report,—

That considerably more than a year ago the attention of the Government was called to the expediency of appointing Queen's Counsel in Nova Scotia.

It appears that, according to the practice that obtained in that Province, criminal prosecutions are generally conducted by Queen's Counsel, and it was stated that there was not a sufficient number of professional gentlemen holding that rank to perform the criminal business satisfactorily.

As the question, where the power of appointment rested, had been mooted in the newspapers, and as it was one that affected the Royal prerogative, it was deemed expedient to pursue the usual course in such cases, and to submit the question for Her Majesty's consideration, and for the opinion of the Law Officers of the Crown.

This opinion was obtained, and it was to the effect that the Governor General has power, as Her Majesty's representative, to appoint Queen's Counsel, but that a Lieutenant-Governor, appointed since the Union came into effect, has no such power of appointment.

Her Majesty was further advised in such opinion, that the Legislature of a Province could confer, by statute, upon the Lieutenant-Governor, the power of appointing Queen's Counsel, and of settling the practice as to precedence or pre-audience in the Courts of the Province.

No appointments of Queen's Counsel for Ontario have yet been made by the Governor General.

The Lieutenant-Governor of Ontario has given commissions as Queen's Counsel to seven members of the Bar, as appears by the Ontario *Gazette* of the 16th March last.

The validity of these appointments was at once questioned by the profession and in the press. Had the question been merely one involving pre-audience in the Courts, the Government would have left it to the decision of those Courts; but by law a Superior Court Judge in Ontario has the power of deputing any of Her Majesty's Counsel to perform his judicial duties, both civil and criminal, at the Assizes.

In case any of the Counsel who have lately received commissions from the Lieutenant-Governor should act for a Judge at the Assizes, and the invalidity of the commission be afterwards established, serious consequences might ensue, as all the proceedings in Court before him would be illegal, and *coram non judice* to the great disturbance of the administration of justice, both civil and criminal.

Under these circumstances, and to remove all doubt, the Minister of Justice recommended that His Excellency the Governor General should grant commissions to such of the gentlemen appointed by the Lieutenant-Governor as desired to receive the same.

The minute of the Executive Council of Ontario states that, although they are still of opinion that the Lieutenant-Governor has the power to grant such commissions, it is their intention, in order to remove all doubts, to submit a measure to the Provincial Legislature on the subject.

The Committee of the Privy Council can make no objection to that course being taken. They do not, however, see that such legislation can in any way affect the power of Her Majesty through Her representative to appoint Her own Counsel, and to grant them commissions as such; and they cannot recommend the surrender or relinquishment of the prerogative of appointment.

The Executive Council of Ontario recommend a reference of this question to the Judicial Committee of the Privy Council.

Had this suggestion been made before the assumption of the power of appointment by the Provincial Government, it might properly have been adopted, but under present circumstances it would seem that the question should be dealt with, in the first instance, by the courts in Ontario.

The Committee of Council do not apprehend that any inconveniences or complications can arise from the Queen's representative exercising the Royal prerogative in making such appointments.

It is obvious that when the Supreme Court or other Dominion Courts are established, commissions issued by the Lieutenant-Governor would not, as of right, give precedence or position in those Courts. At the same time it might be advisable that such commissions should be recognized.

The Committee of Council are, therefore, on the whole, of opinion that His Excellency the Governor General, as the Queen's representative, should not refrain from appointing Her Majesty's Counsel; but they think an arrangement might advantageously be made between the Government of the Dominion and the several Provinces, by which Queen's Counsel, appointed by the Governor General, would receive proper status and position in the Provincial Courts, and commissions issued under statutory authority by the Lieutenant-Governor would be recognized in the Courts of the Dominion.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

The Secretary of State for Provinces to Lieutenant-Governor of Ontario.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 17th December, 1872.

SIR,—Referring to your Despatch of the 26th October last, covering a Minute of your Executive Council, on the subject of the appointment of Queen's Counsel, I have the honor to transmit, for the information and consideration of your Government, a copy of an Order of the Governor General in Council upon the subject.

I have, &c.,

(Signed) JOSEPH HOWE,
Secretary of State for the Provinces.

To the Lieutenant-Governor,
Ontario.

ONTARIO, 31ST VICTORIA, 1867--8.

1ST SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th June, 1868.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th instant, on the memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:

That he considers the Acts mentioned in the annexed schedule, passed by the Legislature of the Province of Ontario, in the first Session thereof, to be free from objection of any kind. He therefore recommends that the same be respectively left to their operation.

(Signed) JOHN A. MACDONALD.

31ST VICTORIA.

1ST SESSION OF THE 1ST PARLIAMENT OF ONTARIO—1867-8.

SCHEDULE.

CAP. 1.—An Act respecting the Statutes.

CAP. 2.—An Act respecting the office of Speaker of the Legislative Assembly.

CAP. 3.—An Act to establish a Consolidated Revenue Fund for the Province of Ontario.

CAP. 4.—An Act for granting to Her Majesty certain sums of money required for defraying the expenses of Civil Government for the year 1868, for making good certain sums expended for the Public Service in 1867, and for other purposes. (O. C., 4th July, 1868.)

CAP. 7.—An Act to repeal Chap. 110 of the Consolidated Statutes of the late Province of Canada, entitled: "An Act respecting Inspectors of Public Asylums, Hospitals, Provincial Penitentiary of Canada, and of all Common Gaols and other Prisons," so far as relates to the Public Asylums, Hospitals, Common Gaols, Reformatories and other Prisons, except the Provincial Penitentiary in this Province, and to the inspection of such public Asylums, Hospitals, Common Gaols, Reformatories and other Prisons.

CAP. 8.—An Act to secure Free Grants and Homesteads to actual settlers on the Public Land.

CAP. 9.—An Act respecting Voluntary Conveyances.

CAP. 10.—An Act to amend the Act 29 Vic., Cap. 24, entitled: "An Act respecting Registrars, Registry Offices, and the registration of Instruments relating to Lands in Upper Canada."

CAP. 11.—An Act to remove doubts as to the Authority of certain Commissioners to take Affidavits and Bail.

CAP. 12.—An Act for the better protection of Game in the Province of Ontario.

CAP. 13.—An Act to amend the Act incorporating the Wellington, Grey and Bruce Railway Co.

CAP. 15.—An Act to incorporate the Ontario College of Picton.

CAP. 16.—An Act to vest certain Real Estate in the Rector and Church Wardens of the Church of St. John the Evangelist, in Port Hope, with authority to raise money upon the security of the same for the completion of a new church thereon, and for other purposes.

CAP. 18.—An Act respecting the appointment of Magistrates and Coroners.

CAP. 21.—An Act to provide for the inspection of Asylums, Hospitals, Common Gaols and Reformatories in this Province.

CAP. 22.—An Act respecting Proceedings in Judges Chambers at Common Law.

CAP. 23.—An Act to amend the Act, Cap. 35, of the Consolidated Statutes of Upper Canada, intituled: "An Act respecting Attorneys-at-Law."

CAP. 24.—An Act to amend the Common Law Procedure Act.

CAP. 25.—An Act as to executions against Goods and Lands.

CAP. 26.—An Act respecting overholding Tenants.

CAP. 27.—An Act to amend the Law relating to Purchases of Reversions.

CAP. 28.—An Act for amending the Law of Auctions of Estates.

CAP. 31.—An Act to amend the Act respecting Joint Stock Companies for the construction of roads and other works in Upper Canada.

CAP. 33.—An Act to protect Butter and Cheese Manufacturers.

CAP. 34.—An Act to authorize and regulate the use of Traction Engines on Highways.

CAP. 35.—An Act to provide for the organization of the Territorial District of Muskoka.

CAP. 36.—An Act to impose a tax upon all Patented Lands situate in the Provisional District of Algoma, and to provide means for the collection thereof.

CAP. 37.—An Act respecting Dentistry.

CAP. 39.—An Act to amend the Charter of the Grey and Simcoe Railway Company.

CAP. 43.—An Act to extend the Cobourg, Peterboro' and Marmora Railway.

CAP. 46.—An Act respecting the collection of certain Taxes in the County of Hastings.

CAP. 47.—An Act to legalize a certain By-law and certain Debentures of the County of Simcoe.

CAP. 48.—An Act to amend Cap. 61 of the 24th Vic., intituled: "An Act to consolidate the debt of the Town of Peterborough, and to authorize the issue of Debentures on the security of Town Property, and for other purposes."

CAP. 49.—An Act for the collection of Taxes for the Corporations of the Town of Belleville.

CAP. 50.—An Act to legalize a certain By-law and certain Debentures of the Corporation of the Township of Bayham.

CAP. 51.—An Act to incorporate the Island of Point-au-Pelee, in Lake Erie, as a separate Municipality of the County of Essex.

CAP. 57.—An Act to incorporate the Bishop Strahan School.

CAP. 58.—An Act respecting the London Collegiate Institute, and to change its name to "Hellmuth College."

CAP. 59.—An Act to incorporate the Toronto Young Men's Christian Association.

CAP. 60.—An Act to incorporate the Sisters of L'Hotel Dieu, for the diocese of Kingston, in the Province of Ontario.

CAP. 61.—An Act to incorporate the Temporal Committee of St. Andrew's Church, in the City of Ottawa, in connection with the Church of Scotland, and to vest certain property in the said Temporal Committee.

CAP. 62.—An Act for the incorporation of the Burnside Lying-in Hospital of Toronto.

CAP. 63.—An Act to incorporate the Toronto Trust Co.

CAP. 68.—An Act to incorporate the Royal Niagara Hotel Co.

CAP. 69.—An Act to incorporate the Royal Canadian Yacht Club.

CAP. 70.—An Act to enable the Trustees of the St. Andrew's Church, in the Town of Chatham, to sell lands held by them for the use of the Congregation, and for other purposes.

CAP. 71.—An Act respecting the grant of certain land, in the Town of Woodstock, to certain Trustees, for the purpose of a Burial Ground for the members of the Presbyterian Church, in the Town of Woodstock, and the vicinity, to change the Trustees thereof, and to provide for the appointment of their successors.

CAP. 72.—An Act to place the Wesleyan Methodist Church and Parsonage property, in the Township of Ancaster, in the County of Wentworth, under the direction and provisions of the "Model Deed" of the Wesleyan Methodist Church in Canada, in connection with the English Conference, for the better management thereof.

CAP. 74.—An Act to make valid Commissions for taking affidavits and bail informally issued, and acts done in pursuance thereof.

CAP. 75.—An Act to give effect to an Indenture bearing date the 1st February, 1868, and made between Edmund Allen Meredith and Anne Frances Meredith, his wife, of the 1st part; Mary Louisa Nanton, of the 2nd part; Lewis Wm. Ord and Sarah Harriet Ord, his wife, of the 3rd part; Wm. Chas. Gwynne and Frederick Wm. Jarvis, of the 4th part; and Jas. Henderson, the younger, of the 5th part.

CAP. 76.—An Act to invest the Estate of the late George Paxton in Trustees.

CAP. 77.—An Act to amend an Act of the Legislature of Canada, intituled: "An Act to vest certain real estate of the late John Knatchbull Roche in the hands of Trustees.

CAP. 78.—An Act to confirm the conveyance by John Saxton Campbell, formerly of the City of Quebec, Merchant, acting by his Attorney, David Ramsay Stewart, to Thomas Eyre, late of the Town of Cobourg, Esquire, of Lots Nos. 25 and 26, in the 6th Concession of the Township of Hamilton, and to declare that the said conveyance vested in the said Thomas Eyre all the estate which the said John Saxton Campbell had, at the time of his death, in the said lands.

CAP. 79.—An Act to authorize the Law Society of Ontario to admit John Whitely as a member of the said Society, and as a Barrister-at-Law.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th July*, 1868.

On a memorandum dated 16th June, 1868, from the Honorable the Minister of Justice and Attorney-General, reporting, with reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th of same month, on his memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, that he considers the Acts mentioned in the annexed schedule, passed by the Legislature of the Province of Ontario, in the first Session thereof, to be free from objection of any kind. He therefore recommends that the same be respectively left to their operation.

The Committee advise that the Acts mentioned in the annexed schedule be left to their operation accordingly.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

SCHEDULE.

Chapters 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 15, 16, 18, 21, 22, 23, 24, 25, 26, 27, 28, 31, 33, 34, 35, 36, 37, 39, 43, 46, 47, 48, 49, 50, 51, 57, 58, 59, 60, 61, 62, 63, 68, 69, 70, 71, 72, 74, 75, 76, 77, 78, 79.

(Signed) JOHN A. MACDONALD.

Report of the Honorable the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 1st July, 1868.

In reference to the following Acts passed by the Legislature of the Province of Ontario, at its late Session, the undersigned has the honor to report as follows:—

31 Vic., Cap. 6.—The second section of chapter 6 is objectionable, inasmuch as it declares that a wilfully false statement made before the commssioners authorized to be appointed under the Act, is a misdemeanor, punishable in the same manner as wilful and corrupt perjury.

This is Legislation respecting the Criminal Law, which appertains solely to the Parliament of the Dominion, and the undersigned recommends that the attention of the Government of Ontario be called to this clause, suggesting that it should be repealed next Session, and no action taken upon it meanwhile. (*Repealed by Stat. of Ont., 32nd Vic., cap.* 27, 1869.)

31 Vic., Cap. 19.—The 40th section of this Act is, in the opinion of the undersigned, liable to the same objection, and the same course is recommended. (*Repealed by Stat. of Ont., 32nd Vic., cap.* 27, 1869.)

31 Vic., Cap. 20.—The 82nd and 83rd sections of this Act are objectionable for the same reason. (*Repealed by Stat. of Ont., 32 Vic., cap.* 27, 1869.)

31 Vic., Cap. 29.—The 50th section of this Act is objectionable for the same reason. (*Repealed by Stat. of Ont., 32 Vic., cap.* 27, 1869.)

31 Vic., Cap. 30.—The 12th section of this Act provides a qualification: "At the Parliamentary elections." This clause, if it is meant to include the Elections to the Parliament of Canada, is beyond the power of the Local Legislature. (*Repealed by Stat. of Ont., 32nd Vic., cap.* 27, 1869.)

The 41st section of the Union Act provides, that all the Laws of the several Provinces relating to the Parliamentary Elections in force at the time of the Union, shall remain in force until the Parliament of Canada otherwise provides.

If the clause in question is intended merely to apply to Elections for the Legislative Assembly of Ontario, it is inaccurate in expression.

To avoid confusion, the Union Act confines the name of Parliament to the General Legislature—the Provincial Legislative bodies are styled uniformly as Legislatures.

The undersigned recommends that the attention of the Government of Ontario be called to this section, and suggests that the same should be amended, so as to limit it expressly to Elections for the Legislature of Ontario.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th July,* 1868.

On a memorandum dated 1st July, 1868, from the Honorable the Minister of Justice and Attorney General, having reference to the following Acts, passed by the Legislature of the Province of Ontario, at its late Session, and reporting thereon as follows:—

31 Vic., Cap. 6.—That the second section of cap. 6 is objectionable, inasmuch as it declares that a wilfully false statement made before the Commissioner authorized to be appointed under the Act is a misdemeanor, punishable in the same manner as wilful and corrupt perjury.

That this is Legislation respecting Criminal Law, which appertains solely to the Parliament of the Dominion, and he recommends that the attention of the Government of Ontario be called to this clause, suggesting that it should be repealed next Session, and no action taken upon it meanwhile.

31 Vic., Cap. 19.—That the 40th section of this Act is, in his opinion, liable to the same objection, and the same course is recommended.

31 Vic., Cap. 20.—That the 82nd and 83rd sections of this Act are objectionable for the same reason.

31 Vic., Cap. 29.—That the 50th section of this Act is objectionable for the same reason.

31 Vic., Cap. 30.—That the 12th section of this Act provides a qualification at all Parliamentary Elections.

That this clause, if it is meant to include the Elections to the Parliament of Canada, is beyond the power of the Local Legislature.

That the 41st section of the Union Act provides that all the laws of the several Provinces, relating to Parliamentary Elections, in force at the time of the Union, shall remain in force until the Parliament of Canada otherwise provides.

That if the clause in question is intended merely to apply to Elections for the Legislative Assembly of Ontario, it is inaccurate in expression.

That to avoid confusion, the Union Act confines the name of *Parliament* to the General Legislature; the Provincial Legislative bodies are styled uniformly as *Legislatures*.

He recommends that the attention of the Government of Ontario be called to this section, and suggests that the same should be amended so as to limit it expressly to Elections for the Legislature of Ontario.

The Committee concur in the report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Under Secretary of State for Provinces to Lieutenant-Governor of Ontario.

O. S. S. P., 10th July, 1868.

SIR,—With reference to the Order of His Excellency the Governor General in Council, of the 9th June last, on the subject of the power of disallowance of the Acts of Local Legislatures possessed by the Government of the Dominion, of which Order written and printed copies have been duly communicated to you, I have the honor to transmit to you herewith, for the consideration of the Government of the Province of Ontario, a certified copy of an Order of His Excellency the Governor General in Council, relating to certain Acts of the Legislature of that Province, passed during its first Session, which appear to be objectionable, and to require amendment or explanation.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary of State for the Provinces.

His Excellency
The Lieutenant-Governor, Toronto.

Report of the Honorable the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd November, 1868.

The undersigned has the honor to report that after full consideration he is of opinion that the following Acts passed by the Legislature of the Province of Ontario at its last Session, 31st Victoria, should, in addition to those mentioned in his report of 16th June last, be left to their operation, viz.:—(*O. C., 5th Nov.*, 1868).

31 Vic., Cap. 14.—An Act for the incorporation of the Erie and Niagara Extension Railway Company.

31 Vic., Cap. 32.—An Act to amend cap. 52 of the Consolidated Statutes of Upper Canada, intituled: "An Act respecting Mutual Insurance Companies."

31 Vic., Cap. 40.—An Act to incorporate the Toronto, Grey and Bruce Railway Company.

31 Vic., Cap. 41.—An Act to incorporate the Toronto and Nipissing Railway Company.

31 Vic., Cap. 42.—An Act to incorporate the Port Whitby and Port Perry Railway Company.

31 Vic., Cap. 44.—An Act for the conversion of the ordinary Bonds and old Stock of the Brockville and Ottawa Railway into reduced Stock, and for other purposes.

31 Vic., Cap. 45.—An Act to amend the Act intituled: "An Act to incorporate the Ottawa City Passenger Railway Company."

31 Vic., Cap. 52.—An Act to grant certain powers to the Toronto Mutual Fire Insurance Company.

31 Vic., Cap. 53.—An Act for incorporating "The Royal Canadian Insurance Company."

31 Vic., Cap. 54.—An Act to grant certain powers to the Oxford Farmers' Mutual Fire Insurance Association.

31 Vic., Cap. 55.—An Act to grant certain powers to the Waterloo County Mutual Fire Insurance Company.

31 Vic., Cap. 56.—An Act to extend the powers of the Gore District Mutual Fire Insurance Company.

31 Vic., Cap. 65.—An Act respecting the Grand River Navigation Company.

31 Vic., Cap. 66.—An Act to incorporate the Rama Timber Transport Company.

31 Vic., Cap. 67.—An Act to incorporate the Gananoque Water Power Company.

31 Vic., Cap. 73.—An Act to authorize the Crescent Petroleum Association of New York and Canada to hold and dispose of certain lands.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 5th November*, 1868.

On a report dated 2nd November, 1868, from the Honorable the Minister of Justice, stating that after full consideration he is of opinion that the following Acts passed by the Legislature of the Province of Ontario, at its last Session, 31st Victoria, should, in addition to those mentioned in his report of 16th June last, be left to their operation, viz.:—

31 Vic., Cap. 14.—An Act for the incorporation of the Erie and Niagara Extension Railway Company.

31 Vic., Cap. 32.—An Act to amend cap. 52 of the Consolidated Statutes of Upper Canada, intituled; "An Act respecting Mutual Insurance Companies."

31 Vic., Cap. 40.—An Act to incorporate the Toronto, Grey and Bruce Railway.

31 Vic., Cap. 41.—An Act to incorporate the Toronto and Nipissing Railway.

31 Vic., Cap. 42.—An Act to incorporate the Port Whitby and Port Perry Railway Company.

31 Vic., Cap. 44.—An Act for the conversion of the ordinary Bonds and old Stock of the Brockville and Ottawa Railway into reduced Stock, and for other purposes.

31 Vic., Cap. 45.—An Act to amend the Act intituled: "An Act to incorporate "The Ottawa City Passenger Railway."

31 Vic., Cap. 52.—An Act to grant certain powers to the Toronto Mutual Fire Insurance Company.

31 Vic., Cap. 53.—An Act for incorporating the Royal Canadian Insurance Company.

31 Vic., Cap. 54.—An Act to grant certain powers to the Oxford Farmers' Mutual Fire Insurance Association.

31 Vic., Cap. 55.—An Act to grant certain powers to the Waterloo County Mutual Fire Insurance Company.

31 Vic., Cap. 56.—An Act to extend the powers of the Gore District Mutual Fire Insurance Company.

31 Vic., Cap. 65.—An Act respecting the Grand River Navigation Company.

31 Vic., Cap. 66.—An Act to incorporate the Rama Timber Transport Company.

31 Vic., Cap. 67.—An Act to incorporate the Gananoque Water Power Company.

31 Vic., Cap. 73.—An Act to authorize the Crescent Petroleum Association of New York and Canada to hold and dispose of certain lands.

The Committee recommend that the Acts above mentioned be left to their operation.

(Signed) W. H. LEE,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd November, 1868.

With reference to his report of the 1st July last, the undersigned has the honor further to report as to the following Acts passed by the Legislature of the Province of Ontario, at its last Session, viz:—

31 Vic., Cap. 17.—That the first section of cap. 17, which continues the Bankruptcy Act passed by the late Province of Canada, being 7th Vic., cap. 10; and the 3rd section, which extends the period limited by the 4th clause of the 29th and 30th Vic., cap. 14, for the continuation of the operation of certain Savings Banks, are objectionable, as they profess to deal with the subject of Bankruptcy and Savings Banks, which, by the British North America Act, are within the exclusive jurisdiction of the Parliament of Canada.

31 Vic., Cap. 38, intituled, "An Act to incorporate the Clifton Suspension Bridge Company."

That this Act is objectionable, inasmuch as it incorporates a Company for the purpose of the construction of a Bridge beyond the limits of the Province of Ontario. It is especially desirable that this Act should be repealed, inasmuch as its promoters, having ascertained the invalidity of the Act in question, procured another Act of incorporation from the Parliament of Canada at its last Session, being 31st Vic., cap. 37. The same parties have, therefore, two Acts of incorporation, and might set up pretensions to build two bridges under them.

31 Vic., Cap. 64, intituled, "An Act to incorporate the Board of Trade of the Town of Guelph."

That it may be doubted whether this Act is not altogether *ultra vires*, as it incorporates a Company for the purpose of promoting and extending the Trade and Commerce of the Province, and as legislation relating to the regulation of Trade and

Commerce is expressly committed to the Parliament of the Dominion by the Union Act.

The undersigned, however, would have recommended that the Act should be left to its operation were it not for the 22nd and 23rd clauses, the first of which is an express provision affecting the regulations of Trade and Commerce; and the second concerns the Criminal Law, both of which subjects are evidently beyond the powers of the Local Legislature.

31 Vic., Cap. 5.—That the 6th clause of cap. 5 is objectionable, inasmuch as it declares certain counterfeiting or imitation of stamps or stamped paper for the purposes of that Act to be Perjury, which is legislation respecting the Criminal Law.

The undersigned recommends that the attention of the Local Government be called to the above, in order that the several clauses may be repealed during the coming meeting of the Legislature of Ontario.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 5th November*, 1868.

On a report dated 2nd November, 1868, from the Honorable the Minister of Justice, stating that with reference to his report of the 1st July last he now further reports as to the following Acts passed by the Legislature of the Province of Ontario, at its last Session, viz. :—

31 Vic., Cap. 17.—That the last section of cap. 17, which continues the Bankruptcy Act, passed by the late Province of Canada, being 7th Vic., cap. 10, and the 3rd section, which extends the period limited by the 4th clause of the 29th and 30th Vic., cap. 14, for the continuation of the operation of certain Savings Banks, are objectionable, as they profess to deal with the subjects of Bankruptcy and Savings Banks, which, by the British North America Act, are within the exclusive jurisdiction of the Parliament of Canada.

31 Vic., Cap. 38, intituled, "An Act to incorporate the Clifton Suspension Bridge Company."

That this Act is objectionable, inasmuch as it incorporates a Company for the purpose of the construction of a bridge beyond the limit of the Province of Ontario.

It is especially desirable that this Act should be repealed, inasmuch as its promoters, having ascertained the invalidity of the Act in question, procured another Act of incorporation from the Parliament of Canada, at its last Session, being 31 Vic., cap. 37. The same parties have, therefore, two Acts of incorporation, and might set up pretensions to build two bridges under them.

31 Vic., Cap. 64, intituled, "An Act to incorporate the Board of Trade of the Town of Guelph."

That it may be doubted whether this Act is not altogether *ultra vires*, as it incorporates a Company for the purpose of promoting and extending the Trade and Commerce of the Province, and as legislation relating to the regulation of Trade and Commerce is expressly committed to the Parliament of the Dominion by the Union Act.

The undersigned, however, would have recommended that the Act should be left to its operation were it not for the 22nd and 23rd clauses, the first of which is an express provision affecting the regulation of Trade and Commerce; and the second concerns the Criminal Law, both of which subjects are evidently beyond the powers of the Local Legislature.

31 Vic., Cap. 5.—That the 6th clause of cap. 5 is objectionable, inasmuch as it declares certain counterfeiting or imitation of stamps or stamped paper, for the purposes of that Act, to be Perjury, which is legislation respecting the Criminal Law.

He, the Minister of Justice, recommends that the attention of the Local Government be called to the above, in order that the several clauses may be repealed during the coming meeting of the Legislature of Ontario. The Committee concur in the report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Under Secretary of State for Provinces to Lieutenant-Governor of Ontario.

O. S. S. P., 9th November, 1868.

SIR,—I have the honor to transmit to you herewith, for the information of the Government of the Province of Ontario, a certified copy of an Order of His Excellency the Governor General in Council, relative to certain Acts therein mentioned, passed by the Legislature of that Province during its last Session, which appear to be objectionable in whole or in part, and to require repeal or amendment.

I have the honor, &c.,

(Signed) E. A. MEREDITH.

The Honorable
The Provincial Secretary, Toronto.

Mr. Assistant Secretary Patteson to Secretary of State.

PROVINCIAL SECRETARY'S OFFICE,
TORONTO, 11th November, 1868.

SIR,—I have the honor to acknowledge the receipt of your two letters of the 9th instant, enclosing respectively, certified copies of Orders of His Excellency the Governor General in Council, respecting certain Acts therein mentioned, passed during the last Session of the Legislature of this Province, which have been left to their operation, and also relative to those which appear to be objectionable in whole or in part, and to require repeal or amendment.

I have, &c.,
THOS. C. PATTESON,
Assistant Secretary.

To the Honorable
The Secretary of State, Ottawa.

ONTARIO, 32-33 VICTORIA, 1868-69.

2ND SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th February, 1869.

With reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on the memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of Ontario, in the second Session thereof, to be free from objection of any kind. He therefore recommends that the same be respectively left to their operation.

(Signed) JOHN A. MACDONALD.

32-33 VIC.—SCHEDULE.

CAP. 2.—An Act for continuing the Legislative Assembly in case of the demise of the Crown.

CAP. 4.—An Act to secure the Independence of the Legislative Assembly.

CAP. 5.—An Act to provide for Oaths to witnesses being administered in certain cases for the purposes of the Legislative Assembly.

CAP. 7.—An Act to alter the Law of Dower, and to regulate proceedings in actions for the recovery of Dower in Upper Canada.

CAP. 8.—An Act to amend the Law as to Wills.

CAP. 9.—An Act to amend the Registry Act, and to further provide as to the Certificates of Married Women, touching their consent as to the execution of Deeds of Conveyance.

CAP. 10.—An Act to make better provision for the dealing by Executors and Administrators with Mortgages.

CAP. 11.—An Act to amend Chap. 119 of the Consolidated Statutes of Upper Canada, so far as it relates to Fees to Sheriffs.

CAP. 12.—An Act to amend Chap. 12 of the Statutes of Ontario, entitled: "An Act for the better protection of Game in the Province of Ontario."

CAP. 13.—An Act to divide the Township of Garafraxa into Municipalities.

CAP. 14. An Act to explain the 36th Section of the Hamilton Debentures Act of 1869, and to legalize, if necessary, the applications of the rates levied by the City of Hamilton under the By-laws referred to in the Section.

CAP. 15.—An Act to authorize and empower the Corporation of the City of Kingston to sell and convey certain of their Lands.

CAP. 16.—An Act to legalize and confirm the survey made by Alex. Campbell, Provincial Land Surveyor, of that part of the Township of Seymour lying north-east of the River Trent and north-west of Crow River.

CAP. 17.—An Act for incorporating the Ontario Mutual Life Assurance Company.

CAP. 18.—An Act to amend the Law as to costs in suits for Alimony.

CAP. 19.—An Act further to amend the Act, Chap. 35, of the Consolidated Statutes of Upper Canada, entitled: "An Act respecting Attorneys-at-Law."

CAP. 20. An Act to amend the Free Grants and Homestead Act, of 1868.
CAP. 24.—An Act respecting the Court of Error and Appeal in the Province of Ontario.
CAP. 25.—An Act to amend the Act passed in the 27th and 28th Victoria, Cap. 28, intituled: "An Act respecting the office of Sheriff, and to make further provision respecting the said office."
CAP. 27.—An Act to repeal and amend certain Acts and enactments herein mentioned.
CAP. 28.—An Act respecting the Public Works of Ontario.
CAP. 29.—An Act respecting the security to be given by Officers in Ontario.
CAP. 31.—An Act to amend the Act imposing a tax on Dogs, and for the protection of Sheep.
CAP. 35.—An Act respecting Land sold for arrears of Taxes.
CAP. 37.—An Act to confer certain powers on Trustees and Executors.
CAP. 38.—An Act to amend the Act intituled: "An Act respecting the survey of Lands in Upper Canada," (now the Province of Ontario).
CAP. 40.—An Act to exempt certain articles from Toll.
CAP. 41.—An Act to amend the Act, Cap. 40, 29th Victoria, entitled: "An Act to prevent the spreading of Canada Thistles in Upper Canada."
CAP. 43.—An Act to amend the Municipal Institutions Act of Upper Canada.
CAP. 44.—An Act to amend the Act respecting Common Schools in Upper Canada.
CAP. 46.—An Act to amend Cap. 57 of Consolidated Statutes of Upper Canada, entitled: "An Act respecting Line Fences and Water Courses."
CAP. 47.—An Act to amend the Act 31st Vic., entitled: "An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures."
CAP. 49.—An Act to make further provision relating to the Territorial District of Muskoka.
CAP. 50.—An Act respecting Titles to Union Houses of Religious Worship.
CAP. 51.—An Act to incorporate the Synod of the Diocese of Toronto, and to unite the Church Society of the Diocese of Toronto therewith.
CAP. 52.—An Act to amend the Act 26th Vic., Cap, 31, entitled: "An Act to incorporate Huron College."
CAP. 53.—An Act to incorporate the Ottawa Unity Protestant Benefit Society.
CAP. 54.—An Act to incorporate the St. Andrew's Society of the City of Ottawa.
CAP. 55.—An Act to authorize the Law Society of Ontario to admit Frederick George Allenby as a Barrister-at-Law.
CAP. 57.—An Act to erect the Townships of Watt, Cardwell, Humphrey, Christie, Medora and Wood, in the District of Muskoka, into a Municipality.
CAP. 59.—An Act to amend and confirm the Charter of "The Ottawa and Gloucester Road Company."
CAP. 60.—An Act amending the "Act to incorporate the Port Whitby and Port Perry Railway Company."
CAP. 63.—An Act to constitute and enable the Trustees of the Estate of Alexander Wright, deceased, to sell and dispose of his Real Estate, and to vest its proceeds for the support and education of his family.
CAP. 64.—An Act to grant certain powers to the Ontario Farmers' Mutual Insurance Company.
CAP. 65.—An Act to amend the Act of the late Province of Canada, 25th Vic., Cap. 72, by declaring the intention of the same and confirming conveyance made by the Trust and Loan Company thereunder.
CAP. 67.—An Act to vest certain Real Estate in the Trustees of the Adelaide Street Wesleyan Methodist Church, Toronto, with power to sell and convey the same, and to apply the proceeds to the erection of a new Church.
CAP. 68.—An Act to incorporate the Ontario Trust and Investment Company.
CAP. 69.—An Act to legalize the granting to and holding by the Municipal Corporation of the Township of St. Vincent, in the County of Grey, in the Province of Ontario, certain Lands.

CAP. 71.—An Act to enable the Council of the Corporation of Port Hope to aid, by way of Bonus, the extension and completion of the Port Hope, Lindsay and Beaverton Railway to Beaverton, and for other purposes.

CAP. 72.—An Act to provide for the Succession of Trustees of the Church and Glebe Property belonging to St. Andrew's Church, Peterborough, and to authorize the Trustees of the said property to mortgage the said property, or part thereof.

CAP. 73.—An Act relative to certain streets in the City of London, of this Province.

CAP. 74.—An Act to grant relief to Lady Smith, and to enable her to manage the Estate of her late husband, Sir Henry Smith.

CAP. 76.—An Act to incorporate the Hellmuth Ladies' College.

CAP. 77.—An Act to incorporate the Hamilton Mutual Fire Insurance Company.

CAP. 78.—An Act to relieve the Trustees of the Hon. John Elmsley, late of Toronto, from Trusts in a certain Indenture mentioned, and to vest the property therein mentioned in Charlotte Elmsley.

CAP. 79.—An Act for the relief of Wm. Houghton Bell and others, interested in the Estate of the late Thomas Bell.

CAP. 81.—An Act for the relief of the Toronto Street Railway Company, and to provide for the sale of their Railway, and for other purposes.

CAP. 82.—An Act to amend the Act 31st Victoria, Cap. 40, entitled: "An Act to incorporate the Toronto, Grey and Bruce Railway Company."

CAP. 83.—An Act to amend the 31st Victoria, Cap. 41, entitled: "An Act to incorporate the Toronto and Nipissing Railway Company."

CAP. 84.—An Act to authorize the Law Society of Upper Canada to admit Charles Gamon as a Barrister-at-Law.

CAP. 85.—An Act to authorize the Law Society of Upper Canada to admit Mr. Darley Pollard as a Barrister-at-Law.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd February,* 1869.

On a memorandum dated 19th February, 1869, from the Hon. the Minister of Justice, stating, with reference to the "Imperial British North America Act, 1867,' and to the Order in Council of the 9th June, 1868, on his memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, that he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of Ontario, in the second Session thereof, to be free from objection of any kind. He therefore recommends that the same be respectively left to their operation.

The Committee submit the above recommendation for Your Excellency's approval.

(Signed) W. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 12th July, 1869.

The undersigned has the honor to report, that after full consideration he is of opinion that the following Acts, passed by the Legislature of the Province of Ontario, at its second Session (32nd Vic.) should, in addition to those mentioned in his Report of the 19th February last, be left to their operation, viz.:—

CAP. 23.—An Act to amend the Acts respecting Division Courts.

Cap. 32.—An Act respecting Tavern and Shop Licenses.

Cap. 33.—An Act respecting the partition of Real Estate in Ontario.

Cap. 39.—An Act to amend the Acts passed in the 27th and 28th years of Her Majesty's reign, respecting the granting of Charters of Incorporation to Manufacturing, Mining and other Companies.

Cap. 42.—An Act to amend the Act of the late Province of Canada, entitled: "An Act for collection, by means of Stamps, of fees of office, dues and duties payable to the Crown upon Law proceedings and Registration."

Cap. 45.—An Act to amend and consolidate the Acts relating to the profession of Medicine and Surgery.

Cap. 48.—An Act to make provision for the Selection of Jurors for the County of York for the year 1869, and for other purposes.

Cap. 58.—An Act to incorporate the Norfolk Railway Company.

Cap. 61.—An Act to incorporate the Peterborough and Haliburton Railway Company.

Cap. 62.—An Act respecting the Colonial Securities Company (Limited), to facilitate proof of its Incorporation, for the execution of instruments, and for other purposes.

Cap. 66.—An Act to incorporate the Kingston and Frontenac Railway Company.

Cap. 70.—An Act to incorporate the Presqu'Isle and Belmont Railway Company.

Cap. 76.—An Act to incorporate the Caledonia Peat Manufacturing and Smelting Company.

Cap. 80.—An Act to incorporate the Simcoe and Muskoka Railway Company.

Cap. 30.—The undersigned also recommends that Cap. 30, entitled: "An Act to provide for Registration of Births, Marriages and Deaths," be left to its operation. At the same time, he feels it incumbent upon him to express his doubt whether the subject of legislation in this Act comes within the provision of the 92nd clause of the British North America Act, 1867; and as to the 16th clause, whether the expression that the party on conviction shall forfeit the sum of fifty dollars to Her Majesty, may not be held to vest in the Crown, for the purposes of the Dominion, the amount of the penalty. These doubts can only be solved by Judicial decision.

Cap. 34.—He also recommends that Cap. 34, entitled: "An Act relating to Mining," be left to its operation. He would venture, however, to express a doubt whether sections 34 and 35 would not be held to be a portion of the Criminal Law.

Cap. 36.—He also recommends that Cap. 36, entitled, "An Act to amend and consolidate the Law respecting the Assessment of Property in the Province of Ontario," be left to its operation.

He is inclined to believe, however, that section 177 is *ultra vires*, inasmuch as it in effect declares, that any unjust or fraudulent insertion in the name of any person on any Assessor or Collector's Roll shall be a Criminal fraud (as contra-distinguished from a Civil fraud), liable to be tried before a Court of competent jurisdiction. This must mean a Court of criminal jurisdiction. And it further declares that on conviction the party shall be liable to fine and imprisonment.

It is difficult to avoid the conclusion that this Clause makes the Act of the fraudulent person a misdemeanor, and if so it is a portion of the Criminal Law. It is a provision, however, so just in itself, that the undersigned is unwilling to object to it, and leaves the objection to be taken before the Courts.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 17*th July*, 1869.

On a report dated 12th July, 1869, from the Hon. the Minister of Justice, stating that after full consideration he is of opinion that the following Acts passed by the Legislature of the Province of Ontario, at its second Session (32 Vic.) should, in addition to those mentioned in his Report of the 19th February last, be left to their operation, viz.:—

CAP. 23.—An Act to amend the Acts respecting Division Courts.

CAP. 32.—An Act respecting Tavern and Shop Licenses.

CAP. 33.—An Act respecting the partition of Real Estate in Ontario.

CAP. 39.—An Act to amend the Act passed in the 27th and 28th years of Her Majesty's reign, respecting the granting of Charters of Incorporation to Manufacturing, Mining and other Companies.

CAP. 42.—An Act to amend the Act of the late Province of Canada, intituled: "An Act for the collection, by means of stamps, of Fees of office dues and duties payable to the Crown upon Law proceedings and Registrations."

CAP. 45.—An Act to amend and consolidate the Acts relating to the profession of Medicine and Surgery.

CAP. 48.—An Act to make provision for the selection of Jurors for the County of York, for the year 1869, and for other purposes.

CAP. 58.—An Act to incorporate the Norfolk Railway Company.

CAP. 61.—An Act to incorporate the Peterborough and Haliburton Railway Company.

CAP. 62.—An Act respecting the Colonial Sureties Company (Limited), to facilitate proof of its Incorporation for the execution of Instruments, and for other purposes.

CAP. 66.—An Act to incorporate the Kingston and Frontenac Railway Company.

CAP. 70.—An Act to incorporate the Presqu' Isle and Belmont Railway Company.

CAP. 76.—An Act to incorporate the Caledonia Peat Manufacturing and Smelting Company.

CAP. 80.—An Act to incorporate the Simcoe and Muskoka Railway Company.

The Minister also recommends that Cap. 30, intituled: "An Act to provide for the registration of Births, Marriages and Deaths," be left to its operation. At the same time, he feels it incumbent upon him to express his doubt whether the subject of legislation of this Act comes within the purview of the 92nd clause of the British North America Act, 1867; and, as to the 16th clause, whether the expression that the party on conviction shall forfeit the sum of fifty dollars to Her Majesty, may not be held to vest in the Crown for the purposes of the Dominion, the amount of the penalty. That these doubts can only be solved by Judicial decision.

He also recommends that Chapter 34, intituled: "An Act relating to Mining," be left to its operation. He would venture, however, to express a doubt whether sections 34 and 35 would not be held to be a portion of the Criminal Law.

He, the Minister, also recommends that Cap. 36, intituled "An Act to amend and consolidate the Law respecting the Assessment of Property in the Province of Ontario," be left to its operation.

He is inclined to believe, however, that section 177 is *ultra vires*, inasmuch as it in effect declares that any unjust or fraudulent assessment, or any wilful or fraudulent insertion of the name of any person on any Assessor or Collector's Roll, shall be a Criminal fraud (as contra-distinguished from a Civil fraud), liable to be tried before a court of competent jurisdiction; that this must mean a Court of Criminal Jurisdiction; and it further declares that on conviction the party shall be liable to fine and imprisonment.

That it is difficult to avoid the conclusion that this clause makes the act of the fraudulent person a misdemeanor, and if so, it is a portion of the Criminal Law. It is a provision, however, so just in itself, that he, the Minister, is unwilling to object to it, and leaves the objection to be taken before the Courts.

The Committee submit the above several recommendations for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th July, 1869.

With reference to the following Acts passed by the Legislature of the Province of Ontario, at its second Session (32 Victoria), the undersigned has the honor to report, as follows :—

That Chapter 3, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers," is objectionable.

By the 18th clause of the "British North America Act, 1867," it is enacted, that the privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons of the Dominion of Canada, shall be such as shall be from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those held, enjoyed and exercised at the passing of such Act by the House of Commons of the United Kingdom.

It is to be assumed that the power to pass an Act defining those privileges was conferred upon the Parliament of Canada on the ground that, without such a provision, the Parliament of Canada could not have passed any such Act.

It is clear from the current of judicial decision in England that neither of the branches of a Colonial Legislature have any inherent right to the privileges of the Imperial Parliament.

Perhaps, however, under the legislative powers given to the Parliament of the Dominion by the 91st section of the Union Act, to make laws "for the peace, order and good government of Canada," it might have passed an Act without any enabling power from the paramount authority establishing and defining the privileges of its two Chambers.

However this may be with respect to the General Parliament, it is to be observed that there is no clause in the Union Act similar to the 18th, giving to the Provincial Legislatures power to define or establish their privileges, and that no *general* powers of legislation for the good government of the Provinces, are given to their Legislatures. Their powers are strictly limited to those conferred by the 92nd, 93rd, 94th and 95th clauses of the Union Act.

By the Act in question it will be seen that the Legislature of Ontario has declared that the Legislative Assembly and its Members shall enjoy the same privileges as those exercised by the House of Commons of Canada.

It would seem, therefore, that this Act is in excess of the power of the Provincial Legislature.

If it has any power to legislate on the matter at all, it seems to follow that while the General Parliament can, under the 18th clause, confer no greater privileges than those enjoyed by the Imperial House of Commons, the Provincial Legislature being bound by no such limitation, might, if it were so disposed, confer upon itself and its Members privileges in excess of those belonging to the House of Commons of England.

That the second section of Chapter 22, intituled: "An Act to amend Chapter 15 of the Consolidated Statutes of Upper Canada, intituled: 'An Act respecting County Courts,'" is also objectionable.

That section provides that the Judges of those Courts are to hold office during pleasure, and shall be subject to removal by the Lieutenant-Governor for inability,

incapacity, or misbehavior, established to the satisfaction of the Lieutenant-Governor in Council.

By the 96th clause of the Union Act the Governor General is to appoint County Court Judges; and by the 100th clause, the salaries allowances and pensions of those Judges are to be fixed and provided by the Parliament of Canada.

The inconveniences that may arise from the appointing power being in the Governor General, and the power of removal also in him, at his pleasure, while there at the same time exists an independent power of removal in the Lieutenant-Governor, are obvious.

The Provincial Legislature evidently considered itself empowered to pass such an Act by the 14th sub-section of the 92nd clause of the Union Act, by which the Provincial Legislatures have power to make laws in relation to the Administration of Justice in the Province, including the constitution, maintenance and organization of Provincial Courts.

That the 6th section of Chapter 1, being the Supply Bill for 1869, is also objectionable, as by the 96th and 100th clauses of the Union Act it is provided that the Governor General shall appoint the Judges of the Superior Courts, and the Parliament of Canada shall fix and provide their salaries, allowances and pensions; it would seem that the Judges of those Courts cannot properly, and without a breach of its provisions, receive emolument of any kind from any but the power which appoints and pays them the legal salaries attached to their judicial positions. On these three Acts, the undersigned, on the 20th February last, made a Report to Your Excellency, which you were pleased to transmit to the Secretary of State for the Colonies, for the purpose of being referred to the Law Officers of the Crown in England; and the Attorney and Solicitor-General have given their opinion, that it was not competent for the Legislature of Ontario to pass those Acts, or either of them.

The undersigned recommends that the attention of the Government of Ontario be called to the two first mentioned Acts, and the 6th clause of the last Act, suggesting that they should be repealed next Session, and no action taken upon them meanwhile.

He recommends also that a copy of Lord Granville's despatch on the subject, and of the opinion of the Law Officers of the Crown, be transmitted, with any Order in Council, that may be adopted on this Report, to the Government of Ontario.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 17*th July*, 1869.

On the annexed Report from the Honorable the Minister of Justice, dated 14th July, 1869, with reference to three certain Acts passed by the Legislature of the Province of Ontario, at its second Session (32 Victoria), which he states are objectionable, viz.:—

Chapter 1.—The Supply Bill, in as far as it affects the salary of the Judges of the Superior Courts.

Chapter 3, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

Chapter 22, intituled: "An Act to amend Chapter 15 of the Consolidated Statutes of Upper Canada, intituled: 'An Act respecting County Courts.'"

The Committee concur in the recommendations contained in said annexed Report, and respectfully advise that the same be approved and carried out.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

The Under Secretary of State, Colonial Office, to the Law Officers of the Crown.

DOWNING STREET, 27th April, 1869.

SIR,—I am directed by Earl Granville to transmit to you copies of a despatch from the Governor General of the Dominion of Canada, No. 22, of the 11th March, 1869, and of a Report from the Minister of Justice, enclosed therein, upon certain Acts passed by the Legislature of the Province of Ontario, and to request that you will, jointly with the Solicitor-General and Attorney-General, favor His Lordship with your opinion, whether it was competent for that Legislature to pass these Acts, or any of them.

Copies of the commission and instructions to Sir J. Young are annexed.

I am, &c.,

(Signed) FREDERIC ROGERS.

To the Attorney-General and Solicitor-General.

The Law Officers of the Crown to the Secretary of State, Colonial Office.

TEMPLE, 4th May, 1869.

MY LORD,—We are honored with Your Lordship's commands, signified in Sir Frederic Rogers' letter of the 27th April, 1869, stating that he was directed by Your Lordships to transmit to us copies of a Despatch from the Governor General of the Dominion of Canada, No. 22, of the 11th March, 1869, and of a Report from the Minister of Justice, enclosed therein, upon certain Acts passed by the Legislature of the Province of Ontario, and to request that we would favor Your Lordship with our opinion, whether it was competent for that Legislature to pass the Acts, or any of them.

Sir Frederic Rogers was pleased to add, that copies of the commission, with instructions to Sir John Young, were annexed.

In obedience to Your Lordship's commands, we have the honor to report—

That we have considered the three several Acts to which Your Lordship has been pleased to direct our attention, and we are of opinion that it was not competent for the Legislature of the Province of Ontario to pass such Acts, or either of them. We consider them inconsistent with the provisions of sections 92 and 96 of the British North America Act.

We have, &c.,

(Signed) R. P. COLLIER.
" J. D. COLERIDGE.

The Right Honorable
The Earl of Granville, K. G., &c., &c., &c.

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET, 8th May, 1869.

CHAP. 3.—" An Act to define the privileges, immunities and powers of the Legis-

SIR,—In compliance with the request contained in your Despatch, No. 22, of the 11th March last, I caused a reference to be made to the Law Officers of the Crown, respecting the

lative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

CHAP. 22.—"An Act to amend Chapter 15 of the Con. Statutes of Upper Canada, intituled: 'An Act respecting County Courts.'"

validity of certain Acts mentioned in the margin, lately passed by the Legislature of Ontario, and of a clause contained in the Supply Bill for 1869, passed by the same Legislature, relating to the increase of the salaries of the Judges of the Supreme Courts of the Province.

I transmit to you, for your information, and for that of your Privy Council, the enclosed copies of the reply which has been received from the Law Officers, and of the letter from this Office, in which their opinion was requested.

I have, &c.,

(Signed) GRANVILLE.

Governor General the Right Honorable
Sir JOHN YOUNG, Bart., G.C.B., &c., &c.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 17*th July*, 1869.

On the recommendation, dated 12th July, 1869, from the Honorable the Minister of Justice, the Committee advise that so much of the Despatch from the Secretary of State for the Colonies to Your Excellency, dated the 8th May last, as refers to Acts of the Provincial Legislatures, which might relate to any of the classes of subjects mentioned in the 7th paragraph of the Royal Instructions, or which might, in Your Excellency's opinion, be unconstitutional or in excess of the powers of the Local Body, be transmitted to the Lieutenant-Governors of the several Provinces, for their information and guidance; and also, that a copy of the said 7th paragraph be forwarded therewith.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

EXTRACT *from the Despatch of the Secretary of State for the Colonies, dated Downing Street,* 8*th May*, 1869, *and No.* 85.

"I have the honor to acknowledge the receipt of your despatch, No. 23, of the 11th March, asking for instructions as to the course which you should pursue with regard to any Act of the Provincial Legislatures which might relate to any of the classes of subjects mentioned in the 7th paragraph of the Royal Instructions, or which might, in your opinion, be unconstitutional, or in excess of the power of the Local Body.

"The prohibitions in the 7th paragraph of the Royal Instructions, with one qualification, rest on grounds of Imperial policy, and therefore the Governor General of the Dominion is not at liberty, even on the advice of his Ministers, to sanction or assent to any Provincial law in violation of them. He would, indeed, be bound to instruct the Lieutenant-Governor of the Province not to give such assent.

"The qualification to which I have above referred is this, that while the Governor General is not at liberty to sanction the passing of a law making any donation or gratuity to himself, it would be for his Ministers to consider whether they should advise him to consent to a donation by the Province to the Lieutenant-Governor, and

he would be at liberty to follow that advice with regard to the second point. If the Governor General were advised by his Ministry to disallow any Provincial Act as illegal or unconstitutional, it would, in general, be his duty to follow that advice, whether or not he concurred in that opinion. If he were advised by his Ministry to sanction any Act which appeared to him illegal, it would be his duty to withhold his sanction, and refer the question to the Secretary of State for instructions.

"The same course might be taken if the Act recommended for his sanction by his Ministers appeared gravely unconstitutional; but it is impossible to relieve the Governor General from the duty of judging, with respect to each particular case, whether the objection to an Act, not of doubtful legality, is sufficiently grave as under all circumstances to warrant a refusal to act at once on the advice tendered to him."

COPY *of the 7th Section of Royal Instructions referred to.*

VII. And for the execution of so much of the powers vested in you by virtue of the "British North America Act, 1867," as relates to the declaring either that you assent in Our name to Bills passed by the Houses of Parliament, or that you withhold Our assent therefrom, or that you reserve such Bills for the signification of Our pleasure thereon, it is Our will and pleasure that when any Bill is presented to you for Our assent, of either of the classes hereinafter specified, you shall (unless you think proper to withheld Our assent from the same) reserve the same for the signification of Our pleasure thereon; subject, nevertheless, to your discretion, in case you should be of opinion that an urgent necessity exists, requiring that such Bill be brought into immediate operation, in which case you are authorized to assent to such Bill in Our name, transmitting to us by the earliest opportunity the Bill so assented, with your reasons for assenting thereto, that is to say :—

Assent to Bills.

Bills to be reserved.

1. Any Bill for the divorce of persons joined together in Holy Matrimony.
2. Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to yourself.
3. Any Bill whereby any paper or other currency may be made a legal tender, except the coin of the realm, or other gold or silver coin.
4. Any Bill imposing differential duties.
5. Any Bill, the provisions of which shall appear inconsistent with obligations imposed upon Us by treaty.
6. Any Bill interfering with the discipline or control of Our forces in Our said Dominion.
7. Any Bill of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in Our said Dominion, or the Trade and Shipping of the United Kingdom and its dependencies, may be prejudiced.
8. Any Bill containing provisions to which Our assent has been refused, or which has been disallowed by Us.

Circular Letter to the Lieutenant-Governors of Provinces.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 22nd July, 1869.

SIR,—I have the honor to transmit herewith, for your information and guidance, a copy of an Order of His Excellency in Council, under date of the 17th inst., together with a copy of the extract, referred to in the Order in Council, of the

Despatch of the Secretary of State for the Colonies to His Excellency, dated the 8th of May last, and a copy of the 7th paragraph of the Royal Instructions.

I have, &c.,

(Signed) E. A. MEREDITH.
Under Secretary of State.

The Hon. W. P. HOWLAND, C.B.,
Lieutenant-Governor, Toronto.

Similar letters to:—Major General Sir Hastings Doyle, K.C.M.G., Lieutenant-Governor, Halifax; Honorable L. A. Wilmot, Lieutenant-Governor, Fredericton; and Honorable Sir N. F. Belleau, Lieutenant-Governor, Quebec.

Lieutenant-Governor of New Brunswick to Under Secretary of State.

GOVERNMENT HOUSE, NEW BRUNSWICK, 28th July, 1869.

SIR,—I have the honer to acknowledge the receipt of your despatch of the 22nd inst., transmitting a copy of an Order of His Excellency in Council, under date of the 17th inst., together with a copy of the extract referred to in the Order, of the despatch of the Secretary of State for the Colonies to His Excellency, dated the 8th of May last, and a copy of the 7th paragraph of the Royal Instructions.

I have, &c.,

(Signed) L. A. WILMOT.

The Under Secretary of State.

Under Secretary of State to Lieutenant-Governor of Ontario.

O. S. S. P., 24th July, 1869.

SIR,—I am directed to transmit to you herewith, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council, together with a copy of the Report of the Honorable the Minister of Justice therein referred to, and of a Despatch and its enclosures from the Right Honorable the Colonial Secretary, on the subject of three Acts of the Legislature of the Province of Ontario, passed during the late Session (32 Victoria).

I have, &c.,

(Signed) E. A. MEREDITH.

The Hon. W. P. HOWLAND, C.B.,
Lieutenant-Governor, Toronto.

Mr. Assistant Secretary Patteson to Under Secretary of State.

PROVINCIAL SECRETARY'S OFFICE, TORONTO, 27th September, 1869.

SIR,—I am commanded by the Lieutenant-Governor to transmit to you, for the information of His Excellency the Governor General, a copy of a minute passed by the Executive Council of Ontario, having reference to three Acts of the Ontario Legislature passed at its last Session, and pronounced objectionable in a Report of a

Committee of the Privy Council, made on the 17th July last, founded upon a Report of the Minister of Justice, bearing date the 14th of the same month, copies of which documents, as also of a Despatch and enclosures from the Colonial Office, were communicated to the Lieutenant-Governor by letter from the Under Secretary of State for the Provinces.

A copy of the report of the Attorney-General of Ontario, upon which action has been taken by the Executive Council, is also transmitted herewith.

I have, &c.,

(Signed) THOS. C. PATTESON,
Assistant Secretary.

COPY *of Minute of Council approved by His Excellency the Lieutenant-Governor, 21st September*, 1869.

The Committee of Council have had under consideration the annexed Report of the Honorable the Attorney-General, on the subject of three several Acts of the Legislature of Ontario, passed during its last Session, as follows:—

32 Vic., Chapter 3, intituled: "An Act to define the privileges, immunities, and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

Chapter 22, intituled: "An Act to amend Chapter 15 of the Consolidated Statutes of Upper Canada, intituled: 'An Act respecting Courts.'"

Chapter 1.—The Supply Bill, in so far as it affects the salary of the Judges of the Superior Courts, which Acts have been objected to by the Honorable Privy Council at Ottawa, in their Report dated 17th July, 1869, adopting the Report of the Honorable the Minister of Justice on the same subject, dated the 14th July, 1869.

The Committee concur in the Report of the Honorable the Attorney-General, and in the reasons therein given for the constitutionality of the said Acts, and advise that the same be approved of.

Certified.

(Signed) JAMES ROSS,
C. E. C.

EXECUTIVE COUNCIL CHAMBER, TORONTO,
25th September, 1869.

Report of Mr. Attorney-General Macdonald.

The undersigned, to whom His Excellency the Lieutenant-Governor referred the letter of the Under Secretary of State, at Ottawa, dated the 24th day of July last, transmitting therewith certain Reports and Communications as per margin, and all bearing on specific objections to three several Acts passed during the last Session of the Ontario Legislature, has the honor to submit the following observations for His Excellency's consideration:—

1. Report of the Honorable the Minister of Justice, dated 14th July, 1869, with copy of Minute of Privy Council approving thereof, and dated 17th July, 1869.

With respect to Chapter 3, intituled: "An Act to define the privileges, immunities and powers of the Legislative

2. A copy of Despatch of 8th May, 1869, from the Col. Minister to His Excellency the Governor General.

3. Copy of letter from Under Secretary of State to Law Officers of the Crown, dated 27th April, 1869, and letter from Law Officers of the Crown, dated 4th May, 1869, with their opinion, addressed to the Right Honorable the Earl of Granville, Colonial Minister.

Assembly, and to give summary protection to persons employed in publication of Sessional Papers," it is said the powers of the Legislature of Ontario are strictly limited to those conferred by the 92nd, 93rd, 94th and 95th clauses of the Union Act, that there is no general power conferred on the respective Local Legislatures to enact laws for the good government of the Provinces, as there has been to the General or Dominion Legislature; and that the express provision contained in the 18th section of the Union Act, granting to the Senate and House of Commons of Canada, and to the Members thereof respectively, "shall be such as are from time to time defined by the Act of the Parliament of Canada, but so that the same shall never exceed those, at the passing of this Act, held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof," shows that without such a provision the Parliament of Canada could not have passed such an Act. On these grounds it has been concluded that the Ontario Statute under consideration, is in excess of the powers of the Ontario legislation.

To justify this conclusion, it is said that if the Local Legislature can pass such a law, because it is not transmitted, it may pass a law exceeding the limitation which has been placed on the Dominion Parliament by the 18th section of the Union Act.

It may not be quite easy to define precisely what power the Local Legislature may or may not lawfully exercise on the very numerous subjects which are within its jurisdiction.

It cannot be denied that the Legislature must possess the power, if not by mere regulation, by Statute, at any rate, to provide for the orderly course of its proceedings; for freedom from arrest of its members whilst attending their duties, and for a reasonable time before and after each Session; for freedom of speech, not only against the Crown, but against private persons; for the right to publish and distribute generally such matters as may be deemed conducive to the public interest, without the risk of suit for publishing what might be otherwise deemed to be defamatory; and for the punishment of all persons guilty of contempt in the face of the House, or before its committees.

For without such protection the Legislature would be unable to maintain its dignity, and would be more feeble than a Justice of the Peace, who has a right to punish for contempt committed at his petty sessions.

And it would be singular that a Legislative Body, which can confer such privileges upon any Court or Municipal body, should not be able to grant them to itself.

The undersigned believes also that the Ontario Legislature could have gone beyond the privileges just named, and could have declared that Members of the Legislature should be proceeded against in civil suits by a particular kind of process, and that all suits against them should be tried in a particular Court, or that no civil suit at all should be commenced or prosecuted against them during the Session of the House, or for a certain time before or after the Session.

The undersigned is also of opinion that witnesses summoned to attend before the House or a Committee should be liable to be proceeded against by the House for contempt in disobeying the process, or in declining to give evidence or otherwise; and that all matters pertaining to election of Members should be tried and determined by the House.

The only privileges which the House of Commons in England possesses, which may not be considered as applicable here, are when it acts as the Grand Inquest of the Nation to enquire into grave offences, and where it accuses for the purpose of a trial for the offence found, and when it adjudicates upon and punishes contempt out of the House.

Yet the undersigned believes there is nothing to prevent the Legislature of Ontario from granting the power of inquisition to itself by Statute.

It may, undoubtedly, withdraw the power from grand jurors, by abolishing the grand jury system, or by transferring the powers now exercised by grand jurors to any other power, body or person.

And that the Legislature may also grant to itself the power to try for and to punish contempts not committed before the House. It is familiar to every one acquainted with the practice of the Superior Courts to what extent contempts to the process and officers of such courts are punished, though not committed in the precincts of the courts. There is no decision, the undersigned believes, at all touching the jurisdiction of the Legislature to pass a statute for such purposes, though there are decisions that a Legislative Body has, as such, no inherent right to assume such power. Powers analogous to those which are exercisable by the British House of Commons, because the latter body has acquired theirs by long usage and custon only, and powers so acquired, are not assumable by other bodies possessing general Legislative authority in other places.

The Dominion Act contains nothing against the Legislation in question.

It does not declare that the Legislature of Ontario shall have authority over those matters which are mentioned in the Act, but that it may exclusively make laws relating to those subjects therein enumerated.

And it seems difficult to maintain that a Legislature which may amend the constitution of the Province, and may legislate on property and civil rights, and generally on all matters of a mere local or private nature, may not by Statute provide that the like power which the House of Commons of the Dominion and the Members thereof possesses, may be possessed also by the Legislative Assembly of Ontario, and the representatives of the people assembled therein, and elected thereto by the same constituents who send members to the Commons.

The argument that the Legislature of Ontario may grant to the Assembly greater powers in the matters alluded to, because not restricted from doing so, than the House of Commons of Canada possesses, because it is restricted from assuming or exercising greater privileges than those which the British House of Commons enjoyed, is not, in the opinion of the undersigned, an answer to the exercise of those powers which are not more extensive than the House of Commons does possess.

It does not follow that the Legislature of Ontario has the power to exercise greater authority than the House of Commons of Canada can exercise.

The limitation placed by the Union Act upon the greater body must, no doubt, be held by just construction of the Statute to operate by limitation upon the subordinate Legislatures as well.

The conclusion to which the undersigned has arrived, with respect to the constitutionality of the Ontario Act, 32 Vic., Cap. 3, is, that it is not liable to the exceptions which have been taken to it, and that sufficient consideration has not, in his humble opinion, been given to the important distinction between powers claimed by the authority of a Statute, and powers claimed as inherently belonging to a Legislative body.

Chapter 22 of 32 Victoria, is intituled : "An Act to amend Chapter 15 of the Consolidated Statutes of Upper Canada, intituled, 'An Act respecting County Courts.'" It is said the first section of this Act is inconsistent. The sentence is, "The Judges of the several County Courts, holding office when this Act takes effect, as well as the Judges hereafter to be appointed, shall hold their offices during pleasure, and shall be subject to be removed by the Lieutenant-Governor for inability, incapacity or misbehavior, established to the satisfaction of the Lieutenant-Governor in Council, anything in the Interpretation Act or any other Act to the contrary notwithstanding." The inconsistency is stated to be, that the section provides that the Judges are to hold their offices during pleasure; that is, the pleasure of the Governor General, and yet they are to be subject to be removed by the Lieutenant-Governor for inability, &c., &c.

If this be the objection taken to the Act, it is not necessarily open to exception. It may be that the Governor General should remove at pleasure, without cause

assigned; and that the Lieutenant-Governor should not have that power, but the power to remove only for inability, &c., &c.

But to avoid any difficulty on that point, the clause may be modified, so as to preserve to the Lieutenant-Governor in Council the right of removal for inability, &c., which is the principal purpose of the enactment.

By the Union Act, the Governor-General has the appointment of the Superior Court, District and County Court Judges in the respective Provinces.

In Ontario, the Superior Court Judges, consisting of the Court of Queen's Bench, Common Pleas and Chancery, are to hold their offices during good behavior, but are removable by the Governor General on an Address of the Senate and House of Commons. The tenure of the County Court Judges, or their mode of removal, is not mentioned in the Act.

The Legislature of Ontario has express power to legislate respecting the establishment and tenure of Provincial offices, and the appointment and payment of Provincial officers. The appointment and payment of County Court Judges are expressly reserved to the Governor General; but as it is only their appointment and payment that have been so vested in him, there seems no valid reason why the other power of the section should not be exercised by the Provincial Legislature, relating to the tenure of the offices of such Judges, particularly as it is the Ontario Legislature alone which can establish these Courts, and the offices to which the Judges are to be afterwards to be appointed.

The undersigned is by no means satisfied that the enactment of last Session, declaring the County Court Judges shall hold their office during the pleasure of the Governor General, is beyond the authority of the Legislature of Ontario.

The appointment to, and the tenure of office are so entirely distinct, one from the other, that the provision in the Union Act, that the Governor General shall appoint the officer, and the provision of the Ontario Legislature, that the officer shall hold his office only during the pleasure of the Governor General, may well stand together without repugnancy, and even without inconvenience.

But if it is thought there is any apparent clashing of rights, the clause may be modified, as before suggested.

The undersigned does not understand that any objection has been made to the power of removal for cause, which has been conferred on the Lieutenant-Governor.

It may, however, be as well to note what has occurred to the undersigned on this point. By the Consolidated Statutes of Upper Canada, Chap. 15, the Judges of the County Courts were appointed by the Governor, and were to hold their offices during good behavior, but they were subject to be removed by the Governor for inability or misbehavior, established to the satisfaction of the Court of Impeachment. The Legislature of Ontario has, as it unquestionably had the right to do, abolished the last named Court, and in effect transferred the power of enquiry to the Lieutenant-Governor in Council by the enactment under consideration. This enactment undoubtedly goes further than authorizing an enquiry to be made into the Judge's conduct, as it declares that the Lieutenant-Governor may, on being satisfied in Council of the truth of the charge, remove the Judge from his office, which was a power before the late Union, to be exercised by the Governor.

The question then is, had the Legislature of Ontario the authority to confer the power of removal on the Lieutenant-Governor, as well as the power to investigate complaints against County Court Judges; or, by the late Union Act, is the power of removing these Judges to be exercised by the Governor General, or by the Lieutenant-Governor?

The 12th section of the Union Act provides, that "all powers, authorities, and functions which, under any Act of the Legislature of Canada, are, at the Union, vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, by those Governors or Lieutenant-Governors individually shall, as far as the same continue in existence, and capable of being exercised after the Union, in relation to the Government of Canada, be vested in and exercisable by the Governor

General individually, as the case requires, subject, nevertheless, to be abolished or altered by the Parliament of Canada.

The like enactment is contained in the 65th section of the Act applicable to the Province of Ontario, conferring all powers on the Lieutenant-Governor which were, at the Union, vested in or exercisable by the Governor of Upper Canada and Lower Canada, as far as the same are capable of being exercised after the Union, in "*relation to the Government of Ontario*," shall be vested in and exercisable by the Lieutenant-Governor.

The question is—is the removal of the County Court Judges for cause, a matter in relation to the Government of Canada, or a matter in relation to the Government of Ontario?

The Governor General appoints the Judges, and the Dominion pays them, by the express provisions of the Union Act.

The general rule is that the power which appoints may also remove.

There are reasons why it may be urged that the Governor General should alone remove, and why the tenure of such offices should therefore be considered to be a matter relating to the Government of Canada.

On the other hand, the Legislature of Ontario has alone jurisdiction over "the Administration of Justice in Ontario, including the constitution, maintenance, and organization of Provincial Courts, both of civil and criminal jurisdiction."

The Legislature of Ontario maintains the County Courts, and can alter their constitution or abolish them; and the Lieutenant-Governor has authority, for what the undersigned has before said, to hold inquisition of all complaints against these Judges, for the purpose of enabling it to be determined whether they should be removed or not. Independently, therefore, of the arguments before submitted, relating to the tenure of these offices being vested in the Legislature of Ontario, which would conclude the question, there is strong reason for believing that the tenure of these Judges, and their removal for cause, should be held to be a matter relating to the General Government of Ontario, and not a matter relating to the General Government of the Dominion.

In taking a review of the particular question, the undersigned is of opinion there is not the inconsistency in the section of the Statute, which it has been stated appears there, for the Governor General to remove without cause, is not opposed to the power of removal by the Lieutenant-Governor for cause.

If it be supposed or insisted upon that the inconsistency suggested is so manifest as to require amendment, the Section can be altered to meet the difficulty raised.

The Legislature of Ontario has power to regulate the tenure of office of the County Court Judges, because the tenure is a matter which has been especially delegated to it by the Union Act.

And the Lieutenant-Governor may remove for cause, because the removal is, by the Union Act, a matter relating to the Government of Ontario, and not to the General Government.

The Lieutenant-Governor, under section 65 of the Union Act, would have had the power, and not the Governor General, upon an adverse finding of the Court of Impeachment, if that Court had still been in existence, the powers of that Court having been, in effect, transferred to the Lieutenant-Governor in Council. The Lieutenant-Governor may now, by virtue of section 65, remove the County Court Judges.

The undersigned, on consideration of the whole question, suggests that the Section of the Act of last Session objected to, should be amended, by enacting that the said Judges shall hold their offices during good behavior, but shall be subject to be removed by the Lieutenant-Governor for inability, incapacity or misbehavior, established to the satisfaction of the Lieutenant-Governor in Council.

Chap. 1, 32nd Vic.—With respect to section 6 of this Act, which relates to the increase of salary made to the Judges of the Superior Courts, and which is in the following words: "And whereas, under the altered circumstances of the country and the increased expense of living, it has been found that the Judges of the Superior

Courts are inadequately paid, be it therefore enacted that there shall be paid for the year one thousand eight hundred and sixty-nine, and for every year thereafter, out of the Consolidated Revenue Fund of this Province, annually to the President or Chief Justice of the Court of Error and Appeal, and to each of the Judges of the Superior Courts of Law and Equity in this Province, the sum of one thousand dollars."

That it has been objected, the Judges of these Courts cannot properly, and without a breach of the provisions of the Union Act, receive emoluments of any kind, from any but the power which appoints and pays them the legal salary attached to their judicial positions.

The meaning of this objection, no doubt is, that the only power which can legally pay these Judges in Ontario, is the Dominion Government.

As a matter of policy, apart from the legal consideration of the question, it may be conceded that the Judges should be paid only by the General Government for the performance of those duties which necessarily attach and belong to them as Judges of the Courts to which the Governor General nominates them.

If, however, the Local Legislature establish a new Court, and appoint the Judges of the Superior Courts to discharge the duties of it, there is no objection that occurs to the undersigned against the Legislature allowing to the Judges a special compensation for the extra duties cast upon them.

The Judges are prohibited from taking fees of any kind unless from the Crown. But when the Local Legislature awards the payment, it is on a footing of a grant from the Crown, as well as when payment is made by the General Government.

Now, the Government of Canada has no power over the Ontario Court of Error and Appeal, or over the Judges of that Court.

There is nothing, therefore, in the opinion of the undersigned, to prevent the Ontario Legislature granting to the Judges of that Court such compensation as they may think proper for the services which they specially render as Judges thereof.

An additional allowance, the undersigned has been informed, was spoken of by the late Government of Canada, as proper to be made to the Judges, as Judges in Appeal, and those extra and very onerous, but unrequited services, were, in the consideration of those who took part in the addition in question and influenced them in their action, though such fact was not embodied in the Statute itself.

The undersigned, therefore, suggests that it would be advisable to amend the sixth section of the Act objected to, by making the addition of one thousand dollars to the yearly salary of the Judges as compensation, specially for their services as Judges of the Ontario Courts of Error and Appeal.

(Signed) J. S. MACDONALD.

1st September, 1869.

Under Secretary of State to Provincial Secretary, Toronto.

O. S. S. P., 29th September, 1869.

SIR,—I have the honor to acknowledge the receipt of Mr. Assistant Secretary Patteson's letter of the 27th instant, covering a copy of a Minute of the Executive Council of the Province of Ontario, together with a copy of a Report of the Honorable the Attorney-General of that Province, upon which the minute is founded, in reference to three Acts of the Ontario Legislature, passed at its last Session, and pronounced objectionable by the Government of the Dominion, as communicated to the Lieutenant-Governor in my letter of the 24th July last.

I have, &c.,

(Signed) E. A. MEREDITH.

The Honorable
The Provincial Secretary, Toronto.

Report of the Honorable the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd October, 1869.

The undersigned has had before him the Minute of Council of the Government of Ontario, bearing date 21st September, 1869. This minute embodies and concurs in the Report of the Honorable the Attorney-General of Ontario, on the correspondence between the General and Provincial Governments, on three Acts of the Legislature of Ontario, passed last Session, viz.:—32nd Vic., Cap. 3; 32nd Vic., Cap. 22; 32nd Vic., Cap. 1.

The Report of the Attorney-General, which is a very able State paper, discusses at length the objections taken by the undersigned to those Acts, in his Report to Your Excellency of the 14th July last, and makes certain suggestions with respect to future legislation on the subjects of the three measures.

These suggestions are worthy of all consideration, should the Legislature of Ontario pass measures founded upon them. It will answer, however, no good purpose to enter into their consideration at present.

Your Excellency, on receiving the report of the undersigned, thought it expedient to submit the three Acts in question to Her Majesty's Government, for the purpose of obtaining the opinion of the Law Officers of the Crown, and receiving specific instructions with respect to them.

The Attorney and Solicitor-General of England having reported that, in their opinion, it was not competent for the Legislature of Ontario to pass those Acts, or any of them, and such Report having been transmitted by the Secretary of State for the Colonies, for your guidance and action, no other course is left to Your Excellency than to disallow the measures, unless they are repealed by the Legislature of Ontario at its approaching Session.

The undersigned would therefore recommend that a Despatch be sent to the Lieutenant-Governor of Ontario to that effect, stating at the same time that, should the Legislature of Ontario, after repealing those Acts, or any of them, pass other measures on the same subjects, Your Excellency will cause them to be taken into immediate consideration, with an anxious desire to meet the views of the Legislature.

It will, of course, be necessary that these Acts, if repealed, should be repealed unconditionally, and any substituted Legislation embodied in separate Bills.

The undersigned further recommends that a copy of the minute of Council founded on this Report be transmitted to the Lieutenant-Governor of Ontario, and that he be requested to inform Your Excellency of the course proposed to be adopted by his Advisers with regard to the three Acts.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd October*, 1869.

The Committee of Council have had under consideration the annexed Memorandum, dated 22nd October, 1869, from the Honorable the Minister of Justice, having reference to certain correspondence between the General Government and the Government of Ontario; and a minute in Council of the latter Government respecting the three Acts of the Legislature of Ontario, passed last Session, viz.:—32 Vic., Cap. 3; 32 Vic., Cap. 22, and 32 Vic., Cap. 1, to which objections were taken by the Minister of Justice in his Report dated 14th July last; and they humbly advise that the suggestions contained in the said annexed memorandum be approved, and that a copy of it, and of the present minute, be transmitted to the Lieutenant-Governor of Ontario as therein recommended.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor of Ontario.

O. S. S. P., 26th October, 1869.

SIR,—I have the honor to transmit to you herewith, for the consideration of the Government of the Province of Ontario, a copy of an Order of His Excellency the Governor General in Council, under date the 23rd inst., together with a copy of the Memorandum of the Honorable the Minister of Justice, referred to in the Order in Council, on the subject of certain correspondence between the General Government and the Government of Ontario, respecting three Acts of the Legislature of Ontario, passed last Session, viz.:—32 Vic., Cap. 1; 32 Vic., Cap. 3; 32 Vic., Cap. 22.

I am, at the same time, to intimate to you that, for the reasons set forth in the accompanying memorandum, no other course is left to His Excellency, than to disallow the Acts cited in the Order in Council, unless they are repealed by the Legislature of Ontario at its approaching Session.

May I request you to give me timely notice, for His Excellency's information, of the course proposed to be adopted by your Advisers with regard to the three Acts under consideration.

(Signed) HECTOR L. LANGEVIN,
Secretary of State for the Provinces.

The Honorable WM. P. HOWLAND, C.B.,
Lieutenant-Governor, Toronto, Ontario.

Report of the Honorable the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th October, 1869.

The undersigned has the honor to report, that after full consideration, he is of opinion that the following Acts, passed by the Legislature of the Province of Ontario at its second Session (32nd Vic.) should, in addition to those mentioned in his Reports of the 19th February and 12th July last, be left to their operation, viz.:—

32 Vic., Cap. 6.—The Law Reform Act of 1868.

32 Vic., Cap. 21.—An Act respecting Elections of Members of the Legislative Assembly.

32 Vic., Cap. 26.—An Act to repeal certain Acts and enactments therein mentioned, and to abolish the Court of Impeachment for the trial of County Judges.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th October,* 1869.

On a Report dated 29th October, 1869, from the Honorable the Minister of Justice, stating that, after full consideration, he is of opinion that the following Acts, passed by the Legislature of the Province of Ontario at its second Session (32nd Vic.), should, in addition to those mentioned in his Reports of the 19th February and 12th July last, be left to their operation, viz.:—

32 Vic., Cap. 6.—The Law Reform Act of 1868.

32 Vic., Cap. 21.—An Act respecting Elections of Members of the Legislative Assembly.

32 Vic., Cap. 26.—An Act to repeal certain Acts and enactments therein mentioned, and to abolish the Court of Impeachment for the Trial of County Judges.

The Committee accordingly recommend that the above mentioned Acts be respectively left to their operation.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th November, 1869.

With reference to the Reports of the undersigned of the 14th July and 22nd October last, relating among, other things, to the Act passed by the Legislature of the Province of Ontario at its last Session, being 32nd Vic., chap. 3, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

And with reference also to the correspondence with the Government of Ontario on the subject, the undersigned has now the honor to report that, in his opinion, it was not competent for the Legislature of the Province of Ontario to pass such Act, and he therefore recommends that the same should not receive the confirmation of Your Excellency.

All of which, &c.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th November,* 1869.

On a memorandum dated 24th November, 1869, from the Honorable the Minister of Justice, stating, with reference to his Reports of the 14th July and 22nd October last, relating among, other things, to the Act passed by the Legislature of the Province of Ontario at its last Session, being 32nd Victoria, chapter 3, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers;" and, with reference also to the correspondence with the Government of Ontario on the subject, that, in his opinion it was not competent for the Legislature of the Province of Ontario to pass such Act, and he therefore recommends that the same should not receive the confirmation of Your Excellency.

The Committee accordingly recommend that the Act referred to be not confirmed.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Copy of Proclamation disallowing Act above mentioned, published in the "Canada Gazette," on 4th December, 1869.

GOVERNMENT HOUSE, OTTAWA, 26th November, 1869.

PRESENT:

His Excellency the Governor General,
The Honorable Sir John A. Macdonald, Honorable Mr. Howe,
" Mr. Tilley, " Sir Francis Hincks.
" Mr. Mitchell,

IN COUNCIL:

Whereas the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province, did, on the 19th day of December, 1868, pass an Act, which has been transmitted, intituled as follows, viz.: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature of the Province of Ontario to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General.

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) WM. H. LEE,
Clerk Privy Council.

I, John Young, Baronet, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Ontario on the 19th day of December, 1868, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers," was received by me on the 26th day of January, 1869.

Given under my hand and seal this 26th day of November, 1869.

(Signed) JOHN YOUNG.

Secretary of State to Lieutenant-Governor of Ontario.

O. S. S. P., 2nd December, 1869.

SIR,—Referring to Mr. Langevin's letter of the 26th October last, I have the honor to transmit to you herewith, for the information of your Government, a Copy of a Minute of His Excellency the Governor General in Council disallowing an Act passed by the Legislature of the Province of Ontario during its recent Session,

intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

The certificate of His Excellency of the date of the receipt by him of the Act in question is also transmitted.

I have, &c.,

(Signed) JOSEPH HOWE.

The Hon. Wm. P. Howland, C.B.,
Lieutenant-Governor, Toronto.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 19th January, 1870.

With reference to the Act passed by the Legislature of the Province of Ontario, at its second Session, 32 Vic., cap. 1, intituled, "An Act for granting to Her Majesty certain sums of money required for defraying the expenses of Civil Government for the year 1869, for making good certain sums expended for the Public Service in 1868, and for other purposes," the undersigned has the honor to report, as follows:—

That on the 14th July last he reported, that, in his opinion "the 6th section of the said Act is objectionable." Such 6th section is as follows:—

"And whereas, under the altered circumstances of the country, and the increased expense of living, it has been found that the Judges of the Superior Courts are inadequately paid: be it therefore enacted, that there shall be paid, for the year one thousand eight hundred and sixty-nine, and for every year thereafter, out of the Consolidated Revenue Fund of this Province, annually, to the President or Chief Justice of the Court of Error and Appeal, and to each of the Judges of the Superior Courts of Law and Equity in this Province, the sum of one thousand dollars."

He further reported, that "as by the 96th and 100th sections of the Union Act, it is provided, that the Governor General shall appoint the Judges of the Superior Courts, and the Parliament of Canada shall fix and provide their salaries, allowances and pensions, it would seem that the Judges of those Courts cannot properly, and without a breach of its provisions, receive emolument of any kind from any but the power which appoints and pays them the legal salary attached to their judicial positions."

With that Report was also submitted the opinion of the Attorney and Solicitor-General of England, that it was not competent for the Legislature of Ontario to pass this section.

Thereupon, by a Despatch from the Secretary of State for the Provinces to the Lieutenant-Governor of Ontario, bearing date the 26th of October, 1869, he was informed that no other course was left to Your Excellency, on the opinions of the Law Officers of the Crown in England, than to disallow this measure, unless it was repealed by the Legislature of Ontario at its approaching Session.

It was at the same time stated, that should the Legislature of Ontario, after repealing the Act, pass another measure on the same subject, Your Excellency would cause it to be taken into immediate consideration, with an anxious desire to meet the views of the Legislature; but, that it would, of course, be necessary that the Act, if repealed, should be repealed unconditionally, and any substituted legislation embodied in a separate Bill.

The Legislature of Ontario, at its last Session, passed a Bill intituled:—

"An Act to remunerate certain members of the Court of Error and Appeal;" by the 1st section of which, the 6th section of the Act first above mentioned is repealed; but, in the same Act, there is contained a provision that the sum of one thousand dollars per annum shall be paid to the Chief Justice of Appeal and other Members of

the Court of Error and Appeal, being also Commissioners under the Heir, Devisee and Assignee Commission.

As the salaries thus provided for the Chief Justice and Judges of the Court of Appeal are payable to the same persons as those mentioned in the 6th section of the previous Act, it will be necessary for Your Excellency, under your instructions, to submit the measure for the sanction of Her Majesty.

Her Majesty may not be advised to give her sanction, and in such case, on the disallowance of the Act, section 6 of the previous Act would revive.

Before Her Majesty's pleasure can be received, the year will have expired within which it is competent for Your Excellency to disallow the Act first above mentioned, the last day for disallowance being the 26th of January instant, and it would then remain on the Statute Book, although declared to be unconstitutional, and beyond the jurisdiction of the Local Legislature.

No other course is therefore left for Your Excellency than to disallow the Act in question without delay.

The Act so to be disallowed is the Supply Bill for the year 1869, but as all payments made under it during its continuance are legal, and, as it provides that any appropriation made under it, which shall be unexpended on the 31st day of December, 1869, shall become void and of no effect, no inconvenience will be suffered by the Government of Ontario by the disallowance.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

Copy of Proclamation disallowing Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Thursday, 20th day of January, 1870.

PRESENT:

His Excellency the Governor General.

Sir John A. Macdonald,	Mr. Howe,
Sir George E. Cartier,	Sir Francis Hincks,
Mr. Tilley,	Mr. Aikins,
Mr. Campbell,	Mr. Morris.

IN COUNCIL:

Whereas the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province, did, on the twenty-third day of January, A.D. 1869, pass an Act which has been transmitted, intituled as follows, viz:—"An Act for granting to Her Majesty certain sums of money required for defraying the expenses of Civil Government for the year 1869, for making good certain sums expended for the Public Service in 1868, and for other purposes."

And whereas the said Act has been laid before the Governor in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that the change of law proposed in the 6th section of the said Act, cannot be legally effected by an Act of the Provincial Legislature; and, therefore, recommending that the said Act should not receive the confirmation of the Governor General.

His Excellency the Governor General has therefore this day been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) WM. H. LEE,
Clerk Privy Council.

I, John Young, Baronet, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Ontario, on the 23rd day of January, 1869, intituled: "An Act for granting to Her Majesty certain sums of money required for defraying the expenses of Civil Government for the year 1869, for making good certain sums expended for the Public Service in 1868, and for other purposes," was received by me on the 26th day of January, 1869.

Given under my hand and seal, this twentieth day of January, 1870.

(Signed) JOHN YOUNG.

Secretary of State to Lieutenant-Governor of Ontario.

O. S. S. P., 21st January, 1870.

SIR,—I have the honor to transmit herewith, for the information of your Government, an Order of His Excellency the Governor General in Council, disallowing an Act passed by the Legislature of the Province of Ontario at its second Session (32 Vic., cap. 1), intituled: "An Act for granting to Her Majesty certain sums of money required for defraying the expenses of Civil Government for the year 1869, for making good certain sums expended for the Public Service in 1868, and for other purposes."

A copy of a Report of the Minister of Justice, referred to in the Order, together with His Excellency's certificate of the date of receipt by him of the Act in question, is annexed to the Order in Council.

I have, &c.,

(Signed) JOSEPH HOWE.

The Hon. WM. P. HOWLAND, C.B.,
Lieutentant-Governor, Toronto.

ONTARIO, 33RD VICTORIA, 1869.

3RD SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th January, 1870.

With reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on the memorandum of the undersigned,

relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That in his opinion all the Acts passed by the Legislature of the Province of Ontario in the third Session thereof (33rd Vic.), with the exception of those mentioned in the schedule hereunto annexed, are free from objection of any kind. He therefore recommends that the same be left to their operation.

The Acts named in the schedule above referred to will be the subject of a further Report.

All of which, &c.,

(Signed) JOHN A. MACDONALD.

SCHEDULE.

CAP. 12.—An Act to amend an Act passed in the Session held in the 32nd year of the reign of Her Majesty, entitled: "An Act to amend Cap. 15 of the Consolidated Statutes of Upper Canada, intituled: 'An Act respecting County Courts.'"

CAP. 71.—An Act to exempt from Municipal taxation, for a certain period therein mentioned, a Sugar Refinery proposed to be erected in the City of Toronto.

CAP. 5.—An Act to remunerate certain Members of the Court of Error and Appeal.

CAP. 19.—An Act to amend the Law relating to Bills of Lading.

CAP. 11.—An Act respecting proceedings in Judges' Chambers at Common Law.

CAP. 24.—An Act to provide for the organization of the Territorial District of Parry Sound.

CAP. 28.—An Act to amend the Act intituled: "An Act respecting Tavern and Shop Licenses."

MEMORANDUM.

In consequence of the illness and absence of the Minister of Justice, the Acts mentioned in the foregoing schedule were not reported upon, and a year having elapsed since their receipt, by the Governor General, they are now left to their operation, subject, of course to any objection that may be raised to their constitutionality.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 21*st January*, 1870.

On a memorandum dated 17th January, 1870, from the Hon. the Minister of Justice, reporting, with reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on his memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures:

That, in his opinion, all the Acts passed by the Legislature of the Province of Ontario in the third Session thereof (33rd Victoria), with the exception of those mentioned in the schedule hereunto annexed, are free from objection of any kind. He therefore recommends that the same be left to their operation.

The Acts named in the annexed schedule will, he states, be the subject of a further Report.

SCHEDULE.

No. 12. An Act to amend an Act passed in the Session held in the 32nd year of the reign of Her Majesty, intituled: "An Act to amend Cap. 15 of the Con. Statutes of Upper Canada, intituled 'An Act respecting County Courts.'"

No. 71. An Act to exempt from Municipal taxation, for a certain period therein mentioned, a Sugar Refinery proposed to be erected in the City of Toronto.

No. 5. An Act to remunerate certain Members of the Court of Error and Appeal.

No. 19. An Act to amend the Laws relating to Bills of Lading.

No. 11. An Act respecting proceedings in Judges' Chambers at Common Law.

No. 24. An Act to provide for the organization of the Territorial District of Parry Sound.

No. 28. An Act to amend the Act intituled: "An Act respecting Tavern and Shop Licenses."

The Committee advise that all the Acts passed by the Legislature of the Province of Ontario, in the third Session thereof (33 Victoria), with the exception of those mentioned in the preceding schedule, (which are to be the subject of future Report), be left to their operation.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

ONTARIO, 34TH VICTORIA, 1870-71.

4TH SESSION—1ST PARLIAMENT.

Lieutenant-Governor Howland to the Under Secretary of State for the Provinces.

GOVERNMENT HOUSE, TORONTO, 27th February, 1871.

SIR,—I have the honor to transmit herewith, for the consideration of His Excellency the Governor General, certified copies of the Bills passed at the Fourth Session of the First Parliament of Ontario, and to which my assent has been given.

I also enclose a Petition presented to me in reference to the Bill entitled: chapter 99, "An Act to confirm the Deed for the Distribution and Settlement of the Estate of the Honorable George Jervis Goodhue, deceased.

The Petition sets forth the objections which were urged against the Bill, and prays that it may not receive the Royal assent.

I regard the principle involved in the Bill and sanctioned by the Assembly as very objectionable, and forming a dangerous precedent; but, in the absence of instructions, and upon the advise of my Council I gave it my assent.

I have, &c.,

(Signed) W. P. HOWLAND,
Lieutenant-Governor.

The Honorable JOSEPH HOWE,
Secretary of State for the Provinces.

Memorial of Mr. Becher to the Lieutenant-Governor of Ontario, re Chapter 99.

To His Excellency the Honorable William Pearce Howland, Companion of the Most Honorable the Order of the Bath, Lieutenant-Governor of the Province of Ontario, &c., &c, in Council.

The humble petition of Henry C. R. Becher, of the city of London, in the said Province, Esquire, one of the executors and trustees under the last will and testament of the Honorable George Jervis Goodhue, deceased, most humbly sheweth—

That a Bill entitled: "An Act to confirm the Deed for the Distribution and Settlement of the Estate of the Honorable George Jervis Goodhue, deceased," has been passed by the Legislature of Ontario, and will be shortly brought before Your Excellency for the Royal assent.

That your Petitioner, as one of the executors and trustees of the said will, opposed the said Bill from its introduction into the Legislature by all means in his power, but without avail; and your petitioner's co-trustee, Verschoyle Cronyn, Esquire, though he did not petition the Legislature against the passing of the said Bill, or oppose the same, as your petitioner did, nevertheless expressed his dissent to the application for the said Bill.

That the enactments of the said Bill give into the immediate and absolute possession and enjoyment of the six children of the testator, money and other personal property, and real property to the amount of upwards of ninety thousand pounds, which, by his will, he directed should accumulate, and, with the accumulations, be held by his executors in trust for all his children who shall be living on the death of his wife, in equal shares, and the child or children of such of them as may then be dead, in equal shares, such grandchild or grandchildren to be entitled to the share his, her or their father or mother would have been entitled to if living.

That there are many grandchildren of the testator, all infants, five of his children having children, and the rights of such grandchildren under the will are, by the enactments of the said Bill, all taken away and destroyed.

The enactments of the said Bill also take away the security provided by the testator of the whole of his residuary estate, for the making good at the time his wife shall die, of any loss or deficiency that may arise in the investment of $172,000, under six deeds of settlement in the will mentioned, in favor of his children and grandchildren, and substitute for such security the sum of ten thousand dollars only.

That the enactments of the said Bill are, your petitioner humbly submits, beyond the powers of the said Legislature, and unconstitutional, in depriving persons of rights and property without their consent, and without any compensation whatever.

That one or more, or all of the said six children of the testator to be benefited by the said enactment might possible never be entitled at all to anything under the said will, their being entitled at all depending entirely upon the contingency of their surviving their mother.

Your Petitioner has annexed hereto a copy of the Probate of the said will granted in Ontario.

That in addition to the lands in Illinois, in the United States of America, mentioned in the said Bill, and thereby directed to be apportioned and conveyed, there are other lands in the said State, part of the estate of the said testator, whereof he died seized, and which passed and are yet held under his will, the same having been duly executed according to the laws of Illinois, to pass real estate, of the value of sixteen thousand dollars or thereabouts, and also a debt secured by mortgage on lands thereof, $8,000, and the Probate of the said will has been registered in the said State.

And, further, the testator died possessed of about $10,000 United States Government bonds, which passed and are yet held under the will.

That at the time of the testator's death he held in England twenty thousand pounds sterling and upwards, in three per cent. consols, which passed under his will; ten thousand five hundred pounds whereof are yet held under the said will, the resi-

due having been sold out and the proceeds brought to Canada for investment by your petitioner and his co-trustees, to whom probate of the said will was granted by the Court of Probate in England, as well as in Ontario.

That your Petitioner humbly submits to Your Excellency, that, independently of what he has already submitted, the said Bill is, on the face of it, beyond the power of the Legislature in relation to the lands therein mentioned, in Illinois. That the said lands in Illinois and the said other lands there, the said United States bonds, and the said three per cent. consols are not, or some of them are not, within the scope or meaning of the words "property or civil rights" in the Province.

That at the time of, and up to the passing of the said Bill, and for some years before, two of the daughters of the said testator and their children, all of them British subjects, have resided and still reside, and were and yet are out of the Dominion of Canada; one of them, Louisa M. Watson, and her children, in the city of New York, in the United States of America; the other, Maria Eliza Tovey, and her children, in Plymouth, in England.

And your Petitioner humbly submits to Your Excellency that the said children of the said Louisa M. Watson and Maria Eliza Tovey, not so residing in the Dominion of Canada, are persons within the meaning of the published Instructions to the Governor General of the Dominion of Canada, under section 55 of the British North America Act, in effect part of that Act directing to be reserved for the Royal assent, or disallowed "any Bill of an extraordinary nature and importance * * * * whereby * * * the rights and property of Our subjects not residing in Our said Dominion may be prejudiced."

That there is no good or sufficient ground or reason whatever, either mentioned in the Bill, or, in fact, for the setting aside the provisions and intentions of the Testator, and the passing of the said Bill—the reason being that the testator's children desire to take his bounty, not as he gave it, but as they prefer to take it.

That the said Bill is of a most extraordinary nature, and, unlike all other Bills hitherto passed in relation to wills, it destroys, instead of aiding the will.

That the Legislature seemingly impressed with this or some other feeling in relation to the said Bill, have, since its passing, originated and are unanimously carrying a Bill for the submitting of all private estate Bills to Commissioners, to be appointed from the Judges of the Superior Courts; and your Petitioner humbly submits that this Bill should be reserved for a future Parliament, to be submitted to the test of such Commissioners.

And your Petitioner further states that the Honorable the Attorney General, the Honorable the Commissioner of Crown Lands, and the Leader of the Opposition in the said Legislature, all voted against the said Goodhue Estate Bill.

That for the reasons hereinbefore given, or appearing, or some, or one of them, your Petitioner humbly submits to Your Excellency that the deed by the said Bill sought to be confirmed and made valid, cannot, by the said Bill, be "confirmed and made valid"; and your Petitioner and co-trustee "cannot carry into effect the several provisions thereof, and be saved harmless and indemnified" in the premises; and the said Bill would be no protection to your Petitioner against the future claims of the grandchildren.

And, in addition to such reasons against the said Bill becoming law, your Petitioner humbly craves Your Excellency's reference to the printed objections hereto annexed, marked "Appendix C."

And your Petitioner humbly prays that Your Excellency will graciously be pleased to take all the premises into your favorable consideration, and either refuse to assent to the said Bill, or, as a measure causing injury to no one, and reserving time for a careful and well considered decision, where the Constitution provides (time that Your Excellency may not have to give, owing to the close termination of the present Session of Parliament) that you will be pleased to reserve the said Bill for the signification of the Governor General's pleasure.

And, as in duty bound, your petitioner will ever pray.

(Signed) HENRY C. R. BECHER.

LONDON, ONTARIO, 11th February, 1871.

APPENDIX C.

SUMMARY *of objections to the Bill. The Act asked for is without precedent, unnecessary, and a violation of the rights of Property.*

1. It is without precedent.—No construction has been suggested which cannot be readily carried out as regards the whole will, without the aid of a Statute and without prejudice either to public or private interests. The delay required in order to settle the construction in the ordinary way, cannot injure the property or individuals, more than in the case of every other will. Under such circumstances, there is no instance of Legislative interference, and each of the cases referred to, will be found clearly distinguishable on one or other of the grounds above mentioned.

2. It is unnecessary.—(1.) As regards the law, assuming the legal construction of the will to be as the promoters suggest, the interference of the Legislature is not called for, for our Courts will place that construction upon it, and the Trustees will carry it out. Assuming it to be otherwise, as the Trustees are advised, it is improper, for there is no reason why the Law should not be followed. The argument that because opinions differ on the will, long litigation will be required to settle its meaning, would apply equally to every other case of a doubtful devise, and would substitute the Legislature for the Courts. This argument, moreover, is founded on the assumption, that in the event of our Courts deciding the fund to be distributable at once, the Trustees would have to go to the Privy Council before acting on such decision. From this view of their duty they (or Mr. Becher at all events) entirely dissent. They will act without hesitation under any decision of our Courts, as all other Trustees in Canada do, and as they are advised they may do with perfect safety. They believe, however, that no decision such as the promoters of the Bill desire will be given, because it would be contrary to law, and it seems plain that no confidence can be felt in the possibility of obtaining it, or it would have been asked for, before coming to the Legislature. The suggestion that the Trustees would necessarily carry the case to the Privy Council, is in fact a mere imaginary difficulty, and if it be not felt to be such by those who make it, why do they not put it to the test, by first getting an order from the Court of Chancery for distribution, and deferring this application until the Trustees show a disposition to decline acting under it. Any decision in any other case, where the matter in controversy exceeds $4,000, would be subject to the same difficulty suggested here; it might be appealed to the Privy Council and reversed; and the argument therefore in effect is, that where the interest insolved is of that value, no Trustee should act, and no title can be considered safe under the judgment of any Canadian Court. Is our Legislature prepared to affirm this?

2. As regards the facts there is no suggestion of necessity; there are no debts due by the estate; no annual outlay not provided for; no land tied up, for the Trustees are directed to sell and invest the proceeds. The sole question is, whether the promoters shall have the proceeds immediately, without regard to the will, or when they become entitled under the will (which some of them may never be) and they assert no reason whatever why the Legislature should give them this money at once, whether the testator so willed it or not, except their own desire to possess it.

3. It is a clear violation of the rights of property.—There are five daughters and a son of the testator now living, all of whom, except one, have infant children. By the will, should a son or daughter die during the widow's lifetime, leaving children, on the decease of the widow, could take their parents' share (in this Mr. Cameron agrees with the Counsel for the Trustees.) By the Act it is proposed now to distribute the fund among the testator's children absolutely. One or more may dispose of or spend their share while the widow lives, and then die leaving children, in which event such children will be deprived of the property which, but for the Act, would have been theirs under the will. In other words, the children of each parent have now a right to their parent's share, should such parent die before the widow and this right the Act takes from them.

Moreover, it is conceded, by Mr. Cameron at least, that should any child die without issue during the widow's life, such child would never become entitled to anything, while it is now proposed by the Statute to give him his share absolutely. It may be added that the fact of five of the testator's children being daughters, and the possibility of a second marriage of a son-in-law during the lifetime of the widow, makes it the more prudent to protect the rights of the grand-children, and may have influenced the testator in making the provision found in his will for that purpose.

Suppose the testator, instead of making this will, had, while living, settled the money in the same terms, would anyone then have ventured to assert the justice of interfering with it, either during, or after his lifetime? And why are not his wishes, as expressed in his last will, to be at least equally binding?

In Sidmouth *v.* Sidmouth, 2 Beav. 456, Lord Langsdale says :—

"The parent may judge for himself when it suits his own convenience, or when it will be best for his son to secure him any benefit which he voluntarily thinks fit to bestow upon him, &c."

In Her Majesty's Surrogate Court of the County of Middlesex.

Be it known that on the first day of February, in the year of Our Lord one thousand eight hundred and seventy, the last will and testament of George Jervis Goodhue, late of the City of London in the County of Middlesex, Esquire, who died on or about the eleventh day of January, in the year of Our Lord one thousand eight hundred and seventy, at the said City of London, and who at the time of his death had a fixed place of abode at the City of London, in the said County of Middlesex, was proved and registered in the said Surrogate Court, a true copy of which last will and testament is hereunder written; and that the administration of all and singular, the personal estate and effects, rights and credits of the said deceased, and any way concerning his will, was granted by the aforesaid Court to Henry Corry Rowley Becher, of the City of London, in the County of Middlesex, Esquire, and Verschoyle Cronyn, of the same place, Esquire, the Executors named in the said will; they having been first sworn well and faithfully to administer the same, by paying the just debts of the deceased, and the Legacies contained in his will, so far as they are thereunto bound by law, and to exhibit a true and perfect inventory of all and singular, the said estate and effects, rights and credits, and to render a just and true account of their executorship whenever required by law so to do.

L. S.
Surrogate Court,
Middlesex.

Law Stamps
amounting to
$3.50.

(Signed) JOHN MACBETH,

Registrar of the Surrogate Court of the County of Middlesex.

NOTE.—For copy of Mr. Goodhue's Will, see Sessional Papers, 1877, volume 9, No. 89, pp. 185-189.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th September, 1871.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June, 1868, on the memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:

That in his opinion all the Acts passed by the Legislature of the Province of Ontario, in the Session held in the 34th year of Her Majesty's reign, (1870) being the fourth Session of the First Parliament of Ontario (with the exception of those undermentioned, which will be the subject of a further Report), are free from objection of any kind. He therefore, recommends that the same be left to their operation.

The following are the exceptions above alluded to:—

CAP. 4.—An Act to provide for the organization of the Territorial District of Thunder Bay.

CAP. 17.—An Act to provide for the establishment and government of a Central Prison for the Province of Ontario.

CAP. 48.—An Act to enable the Municipalities along the line of the Grand Junction Railway Company to grant aid thereto, and to legalize certain By-laws granting aid to the said Company.

CAP. 75.—An Act to incorporate the Simpson Loom Company (Limited).

CAP. 99.—An Act to confirm the Deed for the distribution and settlement of the Estate of the Hon. George Jervis Goodhue, deceased.

All of which is respectfully submitted.

(Signed,) JOHN. A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd September*, 1871.

On a memorandum, dated 18th September, 1871, from the Hon. the Minister of Justice, having reference to the Imperial "British North America Act, 1867," and also the Order in Council of the 9th June, 1868, on his memorandum, relative to the course to be pursued with respect to the Act passed by the Provincial Legislatures, and reporting that, in his opinion, all the Acts passed by the Legislature of the Province of Ontario in the Session held in the 34th year of Her Majesty's reign, being the Fourth Session of the First Parliament of Ontario (with the exception of those undermentioned, which will be the subject of a further Report), are free from objection of any kind, and that he therefore recommends that the same be left to their operation.

That the following are the exceptions above alluded to:—

Chapter 4.—"An Act to provide for the organization of the Territorial District of Thunder Bay."

Chapter 17.—"An Act to provide for the establishment and government of a Central Prison for the Province of Ontario."

Chapter 19.—"An Act relative to Government Road Allowances, and the granting of Crown Timber Licenses therefor.

Chapter 48.—"An Act to enable the Municipalities along the line of the Grand Junction Railway Company to grant aid thereto, and to legalize certain By-laws granting aid to the said Company."

Chapter 75.—"An Act to incorporate the Simpson Loom Company (Limited)."

Chapter 99.—"An Act to confirm the Deed for the distribution and settlement of the estate of the Hon. George Jervis Goodhue, deceased."

The Committee advise that all the Acts passed by the Legislature of the Province of Ontario, in the Session held in the 34th year of Her Majesty's reign (with the

exception of those above mentioned, which will be the subject of a further Report), will be left to their operation accordingly.

Certified.

(Signed), WM. H. LEE,
Clerk Privy Council.

Mr. Becher to the Secretary of State for the Provinces.

LONDON, ONT., 30th September, 1871.

SIR,—With reference to my petition to His Excellency the Governor General, to disallow the Act of the Ontario Legislature destroying the will of the late Hon. Geo. J. Goodhue, I have the honor to inform you that the Court of Appeal sat on the 8th of September instant, but gave no judgment in the cases relating to this Act.

The Chief Justice expressed the hope that, as the Legislature would meet before the Court sat again, the Court might be relieved from giving judgment, by a repeal of the Act; he also intimated that the time had not yet elapsed, within which the Act might be disallowed by the Governor General.

I have again to pray my petition may be considered at His Excellency's earliest convenience, and

I have, &c.,
(Signed) HENRY C. R. BECHER.

The Honorable JOSEPH HOWE,
Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd February, 1872.

With reference to his Report of the 18th September last, on the subject of the Acts passed by the Legislature of Ontario in the 34th year of Her Majesty's reign, the undersigned has the honor further to report as follows:—

Chapter 4.—With respect to Chapter 4, intituled: "An Act to provide for the organization of the Territorial District of Thunder Bay," the undersigned thinks it well that the attention of the Government of Ontario should be called to the *proviso* in the 13th section, which enacts that "No appeal shall be from any judgment or decision of the Stipendiary Magistrate."

This would seem to be an enactment affecting procedure in criminal matters, and if so, it is *ultra vires*.

Chapter 17, intituled: "An Act to provide for the establishment and government of a Central Prison for the Province of Ontario," seems also, in several of its clauses, to deal with matters of criminal procedure, and especially in the 13th, 14th, 15th and 38th clauses.

The attention of the Provincial Government should be invited to this Act with the view of amendment, unless it is considered advisable that a confirmatory Act should be passed by the Parliament of the Dominion.

This latter course the undersigned thinks the better one, as the Act in question will be of great advantage in furthering and aiding the proper administration of criminal justice.

Chapter 48, intituled: "An Act to enable the municipalities along the line of the Grand Junction Railway Company to grant aid thereto, and to legalize certain By-Laws granting aid to the said Company."

Petitions have been received for the disallowance of this Act, but as it is within the competence of the Provincial Legislature, the undersigned recommends that it be left to its operation.

Chapter 99.—" An Act to confirm the Deed for the Distribution and Settlement of the Estate of the Honorable George Jervis Goodhue, deceased."

This Act has also been petitioned against, but for the same reason as that given with respect to Chapter 48, the undersigned recommends that it be left to its operation.

Chapter 75, intituled : " An Act to incorporate the Simpson Loom Company (Limited)."

The second clause of this Act seems to be beyond the jurisdiction of the Local Legislature, as it affects the Patent laws. The undersigned does not however recommend the disallowance, leaving the matter to be adjudicated upon by the legal tribunals.

Chapter 19, intituled : " An Act relative to Government Road Allowances, and the quantity of Crown Timber Licenses therefor."

A petition has been received from the Municipal Council of the County of Frontenac, praying for the disallowance of this Act, but, as it is clearly within the competence of the Local Legislature, the undersigned recommends that it be left to its operation.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd February*, 1872.

The Committee of Council have had under consideration the annexed Report, dated 22nd February, 1872, from the Hon. the Minister of Justice, on the subject of certain Acts passed by the Legislature of Ontario, in the 34th year of Her Majesty's reign, that is to say :—

Chapter 4, intituled : " An Act to provide for the Territorial District of Thunder Bay."

Chapter 17, intituled : " An Act to provide for the establishment and government of a Central Prison for the Province of Ontario."

Chapter 48, intituled : " An Act to enable the Municipalities along the line of the Grand Junction Railway Company to grant aid thereto, and to legalize certain by-laws granting aid to the said Company."

Chapter 99, intituled : " An Act to confirm the deed for the distribution of the estate of the Hon. George Jervis Goodhue, deceased."

Chapter 75, intituled : " An Act to incorporate the Simpson Loom Company (Limited)."

Chapter 19, intituled : " An Act relative to Government Road Allowances, and the granting of Crown Timber Licenses therefor."

And they respectfully advise that the said Report be approved, and that a copy thereof be transmitted by the Hon. the Secretary of State for the Provinces, to the Lieutenant-Governor of the Province of Ontario.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

ONTARIO—35TH VICTORIA, 1871–72.

1ST SESSION—2ND PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th January, 1873.

The undersigned, to whom were referred certified copies of the Acts passed by the Legislature of the Province of Ontario, in the Session held in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 2nd March last, has the honor to report as follows:—

Chapter 13, intituled: "An Act to provide for the institution of suits against the Crown by Petition of Right, and respecting procedure in Crown suits."

With respect to this Act, the undersigned recommends that the attention of the Government of Ontario be called to the fact that it is so general in its terms, that it may be held to apply to claims against the Government of the Dominion.

It is presumed that this is not the intention, as the second clause of the Act provides, that the fiat for a Petition of Right must be granted by the Lieutenant-Governor of the Province. Now, it is obvious that in case of claims against the Dominion, the fiat should be granted by the Governor General. The passing of a short Act removing the doubt is suggested.

Chapter 36, intituled: "An Act for the prevention of corrupt practices at Municipal Elections."

The 17th section of this Act appears, to the undersigned, to be objectionable, on the ground that it seems to deal with the evidence to be received in criminal proceedings, and is therefore beyond the competence of the Provincial Legislature. The attention of the Government of Ontario should be called to this, with a view to its amendment in the ensuing Session of their Legislature.

Chapter 37, intituled: "An Act to establish Municipal Institutions in the Districts of Parry Sound, Muskoka, Nipissing and Thunder Bay."

While the undersigned recommends that this Act should be allowed to go into operation, he thinks it well that the 26th section should be brought under the notice of the Local Government. The undersigned doubts the power of the Provincial Legislature to give a Municipal Council power to pass by-laws limiting the number of licenses for the sale of intoxicating liquors. Such Legislature has the power of making laws respecting licenses in order to the *raising of a revenue*, and apparently for no other purpose. If it cannot itself limit the number of licenses to be issued, it would seem that it cannot confer that power on a Municipal Council.

With these exceptions, all the said Acts appear to be unobjectionable.

The undersigned has, therefore, the honor to recommend that all the said Acts, except chapters 13 and 36, be left to their operation, and that with respect to those two Acts, further communication from the Ontario Government will be waited for.

(Signed) JOHN A. MACDONALD.

MEMORANDUM ON ABOVE REPORT.

On further consideration of Act 35 Vict., chap. 13, it was the opinion of the Minister of Justice, that it can only be held to apply to litigation, in matters within the jurisdiction, and could not be held to the Crown in Dominion matters, and that it was therefore unobjectionable.

The Act 35 Vict., chap. 36, has been amended in accordance with the suggestion made in the preceding Report. The clause 17, above objected, being amended by 164th section of statute 36 Vict., chap. 48, it is now unobjectionable *quoad* the clause objected to.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 10*th January*, 1873.

The Committee have had under consideration the annexed Report, dated 6th January, 1873, from the Hon. the Minister of Justice, having reference to the certified copies of the Acts passed by the Legislature of the Province of Ontario, in the Session held in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 2nd March, and for the reasons given in the said annexed Report, they respectfully advise that all of the said Acts, with the exception of chapters 13 and 36, be left to their operation, and that with respect to those two Acts, further communication from the Ontario Government will be waited for. They further advise that a copy of the said Report, and of this Minute, be communicated to the Lieutenant-Governor of the Province of Ontario.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

ONTARIO, 36TH VICTORIA, 1873.

2ND SESSION—2ND PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th August, 1873.

With reference to the Acts passed by the Legislature of the Province of Ontario in the Session held in the thirty-sixth year of Her Majesty's reign, being the Second Session of the Second Legislature of that Province, the undersigned has the honor to report:—

That after a careful examination of the Acts in question, he is of opinion that, excepting chapters 2, 3, 4, 31, 35, 47, 48 and 50, they are all unobjectionable.

With respect to chapter 2, intituled : "An act to amend the Law respecting elections of Members of the Legislative Assembly ; and respecting the trial of such elections, the 7th and 11th sections are *ultra vires,* as they declare certain actions of election agents and candidates to be misdemeanors. (See reply to this Report, by Executive Council of Ontario, in Despatch of the Lieutenant-Governor, Ontario, to Secretary of State, 16th January, 1874.)

This is Legislation as to criminal law, which is beyond the jurisdiction of the Provincial Legislature.

The undersigned recommends that the attention of the Government of Ontario be called to these two clauses, with the view of having them amended at the next Session of its Legislature, meanwhile the undersigned does not propose that the Act should be disallowed.

He also recommends that chapter 31 intituled : "An Act to make further provision as to the custody of Insane persons," be brought under the notice of the Local Government.

The Act appears to be unobjectionable, except as regards the 29th section. That clause provides that "upon the appearing to the Lieutenant-Governor that an Insane person has come, or been brought into the Province, from some other Province or Country, the Lieutenant-Governor, by his warrant, may authorize the removal of such Insane person back to the Province or Country from whence he has been brought."

It is believed that the Provincial Legislature has no power to authorize any such extradition. For the purpose of authorizing an Insane or any person to be removed from one Province of the Dominion to another, Legislation must be procured from the Parliament of Canada ; and for the purpose of removing out of the Dominion, an Act must be passed by the Imperial Parliament.

The attention of the Provincial Government is also invited to cap. 35, intituled : "An act to provide for the incorporation of Emigration Aid Societies in the Province of Ontario."

By the 13th section it is provided that certain written contracts entered into by an Immigrant can be enforced by civil suit; and also that the refusal by such Immigrant to perform certain obligations undertaken by him, shall be an offence cognizable before a Justice, and punishable by fine, and imprisonment until the fine be paid ; the clause further enacting that the payment of such fine shall not prevent or effect any civil remedy under the contract.

The use of the word " offence " in this clause, and the conviction for such offence being placed in contrast to a civil remedy, would appear to make conviction by the Justice a criminal proceeding. The undersigned would beg leave to suggest the inexpediency of describing, in Provincial Statutes, any breach of the law of the Province, as an *offence.*

The 15th paragraph of the 19th section of the British North America Act, 1867, enables a Provincial Legislature to make laws in relation to the imposition of punishment by fine, penalty or imprisonment, for enforcing any law of the Province.

The word " offence " in legal parlance seems to imply a breach of the criminal law, and when not expressly declared to be treason or felony, may be considered as synonymous with misdemeanor.

On reference to the 15th section of the same Act, it will be seen that it also deals with the criminal law, by declaring that certain false stetements shall be misdemeanors, punishable as wilful and corrupt perjury.

Chapter 50, intituled " An Act to organize the Municipality of Shuniah, and to amend the Act for establishing Municipal Institutions in Unorganized Districts," seems to be unobjectionable, if the territory included in such Municipality shall, when the Western Boundary of Ontario is settled, prove to be within the limits of that Province.

The undersigned desires to bring this under the notice of Your Excellency and of the Local Government of Ontario, lest, by Your Excellency allowing the Act to go

into operation without remark, it might be held to be an acquiescence in the extent of territory claimed for the Province.

The undersigned therefore begs leave to recommend that all the Acts of the said Session, except chapters 3, 4, 34, 47 and 48, which will be reported upon hereafter, and chapters 2, 31, 35 and 50, to which the attention of the Government of Ontario is invited in this Report, with a view to their amendment in the ensuing Session of the Legislature, be left to their operation.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General on the 30th August*, 1873.

The Committee have had under consideration the Despatches of 2nd April and 29th May, 1873, from the Lieutenant-Governor of Ontario, transmitting for Your Excellency's consideration certified copies of the Acts passed by the Legislature of that Province, in the Session held in the thirty-sixth year of Her Majesty's reign, being the Second Session of the Second Legislature of that Province.

They have also had before them the Report, dated 25th August, 1873, from the Hon. the Minister of Justice, to whom the above mentioned Despatches and Acts were referred, and they respecfully submit their concurrence therein, and advise that, for the reasons given in the said Report, all the Acts of the said Session, except chapters 3, 4, 34, 47 and 48, which will be reported upon by him hereafter, and chapters 2, 31 and 35, to which the attention of the Government of Ontario is invited in that Report, with a view to their amendment in the ensuing Session of the Legislature, be left to their operation.

They further advise that a copy of the said Report and of the present Minute, if approved, be transmitted by the Secretary of State for the information of the Government of Ontario.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

NOTE.—Chaps. 3, 4, 34, 47 and 48 do not appear to have been subsequently dealt with by the Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th August, 1873.

The undersigned has had under consideration two Acts passed by the Legislature of the Province of Ontario, at its last Session, entitled respectively :

"An Act to incorporate the Loyal Orange Association of Western Ontario," an "An Act to incorporate the Loyal Orange Association of Eastern Ontario," which were reserved by the Lieutenant-Governor for the Assent of Your Excellency, and now beg leave to report :

That these Acts purport to incorporate two Provincial Associations.

That the only object of these Associations, appearing on the face of the Acts, is the holding of property, real and personal.

That this being a Provincial object, the Acts are within the competence and jurisdiction of the Provincial Legislature.

Such being the case, in the opinion of the undersigned the Lieutenant-Governor of Ontario ought not to have reserved these Acts for Your Excellency's assent, but should have given his assent to them as Lieutenant-Governor.

Under the system of Government that obtains in England, as well as in the Dominion and its several Provinces, it is the duty of the Advisers of the Executive, to recommend every measure that has passed the Legislature for the Executive assent.

The provision in "The British North America Act of 1867," that Your Excellency may reserve a Bill for the signification of Her Majesty's pleasure, was solely made with the view to protection of Imperial interests, and the maintenance of Imperial policy, and in case Your Excellency should exercise the power of reservation conferred upon you—you would do so in your capacity as an Imperial officer, and under the Royal Instructions.

So, in any Province the Lieutenant-Governor should reserve a Bill in his capacity as an Officer of the Dominion, and under instructions from the Governor-General.

The Ministers of the Governor General and of the Lieutenant-Governor are alike bound to oppose in the Legislature, measures of which they disapprove, and if, notwithstanding, such a measure be carried, the Ministry should either resign, or accept the decision of the Legislature, and advise the passage of the Bill. It then rests with the Governor General, or the Lieutenant-Governor, as the case may be, to consider whether the Act conflicts with his instructions or his duty as an Imperial or a Dominion officer,—and if it does so conflict, he is bound to reserve it, whatever the advice tendered to him may be; but if not, he will doubtless feel it his duty to give his assent, in accordance with advice to that effect, which it was the duty of his Ministers to give.

With respect to the present measures, the undersigned is of opinion that the Lieutenant-Governor ought not to have reserved them for Your Excellency's assent, as he had no instructions from the Governor General in any way affecting these Bills. They are entirely within the competence of the Ontario Legislature, and if he had sought advice from his Legal Adviser, the Attorney-General of Ontario, on the question of competence, he would undoubtedly have received his opinion that the Acts were within the jurisdiction of the Provincial Legislature.

This is evident from the fact that (as appears by Votes and Proceedings of the Legislature) the Attorney-General voted for and supported the Bills as a Member of the Legislature. Under these circumstances, the undersigned recommends that the Lieutenant-Governor be informed that Your Excellency does not propose to signify your pleasure with respect to these reserved Acts, or to take any action upon them. The Legislature of Ontario will, at its next Session, which must meet before the expiration of the year within which, by the Constitution, Your Excellency has power to signify your pleasure, have the power, if it pleases, of considering these measures anew, and re-enacting, or rejecting them at its discretion.

If the Acts should again be passed, the Lieutenant-Governor should consider himself bound to deal with them at once, and not ask Your Excellency to intervene in matters of Provincial concern, and solely and entirely within the jurisdiction and competence of the Legislature of the Province.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th August,* 1873.

The Committee of Council have had under consideration the Report dated 26th August, 1873, of the Hon. the Minister of Justice upon two Acts passed by the Legislature of the Province of Ontario at its last Session, intituled respectively:—

"An Act to incorporate the Loyal Orange Association of Western Ontario," and

"An Act to incorporate the Loyal Orange Association of Eastern Ontario," which were reserved by the Lieutenant-Governor for the assent of Your Excellency; in

which Report the Commitee submit their concurrence, and for the reasons therein set forth, they recommend that the Lieutenant-Governor be informed that Your Excellency does not propose to signify your pleasure with respect to these reserved Acts, or to take any action upon them.

The Legislature of Ontario will, at its next Session, which must meet before the expiration of the year within which, by the Constitution, Your Excellency has the power to signify your pleasure, have the power, if it pleases, of considering these measures anew, and re-enacting or rejecting them at its discretion.

If the Acts should again be passed, the Lieutenant-Governor should consider himself bound to deal with them at once, and not ask Your Excellency to intervene in matters of Provincial concern, and solely and entirely within the jurisdiction and competence of the Legislature of the Province.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

ONTARIO, 37TH VICTORIA, 1874.

3RD SESSION—2ND PARLIAMENT.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 7th April, 1874.

SIR,—I have the honor to submit, herewith, an Address of the Legislative Assembly of the Province of Ontario to His Excellency the Governor General of the Dominion of Canada, praying that His Excellency will cause to be laid before the Parliament of Canada the desire of the Legislature of Ontario, that the British North America Act of 1867 be so amended, as to enable the Legislatures of the several Provinces, and of that of Ontario, to enact such laws as may seem necessary for the regulation, and partial or entire prohibition, of the making and vending of intoxicating spirits.

You will be good enough to bring the Address under the immediate notice of His Excellency the Governor General.

I have, &c.,

(Signed) JOHN CRAWFORD.

The Honorable
The Secretary of State of Canada.

Petition of Legislative Assembly of Ontario.

To His Excellency the Right Honorable Sir Frederick Temple, Earl of Dufferin, Viscount and Baron Clandeboye, in the County Down, in the Peerage of the United Kingdom, Baron Dufferin and Clandeboye, of Ballyleidy and Killeleagh, in the County Down, in the Peerage of Ireland, and a Baronet, Knight of Our Most Illustrious Order of Saint Patrick, and Knight Commander of Our Most Honorable Order of the Bath, Governor General of Canada, and Vice-Admiral of the same, &c., &c., &c.

MAY IT PLEASE YOUR EXCELLENCY:—

We, Her Majesty's dutiful and loyal subjects, the Legislative Assembly of the Province of Ontario, in Parliament assembled, beg leave to inform Your Excellency that this House hath voted an Humble Address to Your Excellency, praying that Your Excellency will cause to be laid, in due course and form, before the Parliament of Canada, the desire of this House, that the British North America Act of 1867 may be so amended as to enable the Legislatures of the several Provinces, or the Legislature of the Province of Ontario, to enact such laws as in their wisdom may seem necessary, for the regulation, and partial or entire prohibition, and suppression of the use, and of the making and vending of ardent or intoxicating spirits as a beverage, on the ground that the same is detrimental to society, as well as being the most prolific source of idleness, poverty and crime.

LEGISLATIVE ASSEMBLY, TORONTO, 19th February, 1874.

(Signed) CHARLES T. GILMOR, Clerk. (Signed) R. M. WELLS, *Speaker.*

Secretary of State to Lieutenant-Governor of Ontario.

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 9th April, 1874.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 400, of the 7th inst., covering an Address to His Excellency the Governor General, from the Legislative Assembly of the Province of Ontario, praying that the British North America Act may be so amended as to enable the Legislatures of the several Provinces of the Dominion, or of that of Ontario, to enact laws in reference to the making and vending of intoxicating liquors.

The Address will be duly submitted to His Excellency.

I have, &c.

(Signed) E. J. LANGEVIN,
U. S. S.

To His Honor
The Lieutenant-Governor of Ontario.

Report of the Honorable the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th November, 1874.

The undersigned has the honor to report upon certain Acts of the Legislature of the Province of Ontario, passed in the 3rd Session of the Second Parliament of Ontario, as follows:—

Chapter 5.—"The Ballot Act, 1874."

Section 27 provides punishment by imprisonment for different offences, amongst which is that of forging, or counterfeiting, or fraudulently altering ballot papers, &c.

It is suggested that it is not within the competence of a Legislature to legislate on the subject of forgery, and that this clause will be in conflict with 32nd and 33rd Vic., Chap. 19, or some sections thereof.

Chapter 7.—"An Act to make further provision for the due Administration of Justice."

This Act provides for the appointment, in the manner prescribed by the British North America Act, 1867, of three additional Judges who are to be called Justices of the Court of Error and Appeal.

The 2nd section provides that "the additional Judges, so to be appointed, may be selected from the Judges, for the time being, of the Courts of Queen's Bench, Chancery and Common Pleas, or from such Barristers as are eligible to be appointed Judges of those Courts."

It is suggested that this provision, although put in a permissive sense, in so far as it limits the appointment of the Judges, to such Barristers as are eligible to be appointed Judges of the Courts mentioned, is *ultra vires*, as by reference to the British North America Act, 1867, clause 97, it will be found that the only limit upon the discretion of the Governor General in selecting Judges for the several Provinces is, that they shall be selected from the Bars of the Provinces respectively.

It would appear, therefore, that this provision is ineffectual, as being beyond the jurisdiction of a Provincial Legislature, and that the Governor General would not, in this particular, be bound by such a limitation imposed on him in the appointment to the Bench.

The 5th section deals with the question of rank and precedence. It gives the Chief Justice of the Court of Error, and Appeal rank and precedence over all the other Judges of Her Majesty's Courts of Law and Equity in Ontario, "and the other Judges of the said Court of Error and Appeal appointed under that Act, and the Chief Justice of Ontario, the Chancellor of Ontario, and the Chief Justice of the Court of Common Pleas, shall have rank and precedence between themselves, according to their seniority of appointment to any of the said offices."

The undersigned suggests that the question of rank and precedence of functionaries appointed by the Crown, is a matter which can be dealt with solely by the Crown, or by the Authority to whom the Crown delegates the same.

There is no delegation to a Provincial Legislature of the right to grant the same, and it can hardly be urged that the precedence of Judges can be deemed to be within the subject of the administration of justice within the Province, or of the constitution and organization of Provincial Courts; nor is it a matter of a merely local or private nature in the Province.

It is stated by Chitty—"Prerogatives of the Crown"—that the Judges, generally speaking, derive their authority only from the Crown. He states also "the Crown alone can create and confer dignities and honors; the King is not only the fountain, but the parent of them."

"To the Crown also belongs the prerogative of raising Practitioners in the Courts of Justice to a superior eminence, by constituting them Sergeants, &c., or by granting Letters Patent of precedence to such Barristers as His Majesty thinks proper to honor with that mark of distinction, whereby they are entitled to such rank and preaudience as are assigned in their respective Patents."

Dodd, in his *Manual of Dignities*, states that "precedence is part and parcel of the law of England, subsisting under the authority of Acts of Parliament, solemn decisions in Courts of Justice, or public instruments proceeding from the Crown."

"It is to be observed * * * * seniority is amongst the leading principles of our system of precedence. * * * * Dates of Patents and Commissions determine the precedence which individuals of the same rank take amongst each other, and thus the station and degree of each are ascertained, by means, which rarely admit of controversy or doubt."

"Rank and precedence in England may of course be granted to any person by the supreme power of the Legislature; or it may be imparted by an exercise of the Royal Prerogative in the form of a Patent or Warrant. Where the Legislature is silent, or the Sovereign has not thought it necessary to interfere, the particular station confessedly held and fully recognized to belong to any class, may be presumed to rest upon immemorial usage."

In England the rule appears to be undoubted that, unless precedence of Judges is fixed by the exercise of the Royal Prerogative, or by Act of Parliament, they take precedence amongst each other according to seniority of appointment.

If it were necessary to make specific allusion to cases in which the point has arisen, it is believed that many precedents might be cited as being governed by this rule, but the undersigned suggests that the attention of the Lieutenant-Governor be drawn to this matter, with a view of making such amendment to the Act as his Government may deem most likely to meet the circumstances of the case.

Chapter 28.—"An Act to amend and consolidate the Public School Law."

Sec. 184 provides that a person willingly making false declaration of his right to vote shall be guilty of a misdemeanor.

It is suggested that this is beyond the Provincial Legislative competence; and the same remark applies to sec. 189, which provides that offenders, in respect of that section mentioned, may be indicted and punished for any of the offences thereinbefore mentioned as a misdemeanor.

Chapter 32.—"An Act to amend and consolidate the Law for the sale of Fermented or Spirituous Liquors."

Section 24 provides that no person shall sell, by wholesale or retail, any spirituous fermented or other manufactured liquors in the Province of Ontario without first having obtained a license under the Act authorizing him so to do.

Section 25 provides that no person shall keep, have in any house, &c., any spirituous liquor for sale unless licensed.

Section 26 provides that the last two sections shall not prevent any brewer, distiller, or other person duly licensed by the Government of Canada, for the manufacture of liquors, from keeping, having or selling any liquor manufactured by him in any building wherein the manufacture is carried on, &c.; provided that any such brewer, distiller, or other person is further required to first obtain a license to sell by wholesale, under this Act, the liquor so manufactured by him when sold for consumption within this Province, and under which license the liquor may be sold, &c., but so that no such sale shall be in quantities less than those prescribed in section 4 of the Act.

The undersigned suggests that these sections are prohibitory in respect of trade and commerce, and recommends that the consideration of the Lieutenant-Governor be invited to this point, with a view to any amendment of the law which his Government may think necessary.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *April*, 1875.

The Committee have had under consideration a Report, dated 18th November, 1874, hereunto annexed, from the Honorable the Minister of Justice, upon Chapters 5, 7, 28 and 32 of the Acts of the Legislature of the Province of Ontario, passed in the 3rd Session of the Second Parliament of Ontario, submitting certain suggestions

and recommendations, and they concur therein, and advise that the same be approved and communicated to the Lieutenant-Governor of Ontario.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Assistant Secretary Eckart to the Secretary of State of Canada.

TORONTO, 6th October, 1875.

SIR,—I am directed to transmit herewith copy of an Order in Council, approved by His Honor the Lieutenant-Governor, the 5th day of October, 1875, having reference to the Report of the late Minister of Justice to His Excellency the Governor General, approved by His Excellency in Council, and communicated to His Honor the Lieutenant-Governor by a Despatch from the Under Secretary of State, dated 5th April, 1875, the subject being certain sections of four Statutes (Chaps. 5, 7, 28 and 32) passed at the Third Session of the Second Parliament.

I have, &c.,
I. R. ECKART,
Assistant Secretary.

The Honorable the Secretary of State, Canada,
Ottawa.

COPY *of an Order in Council, approved by of His Honor the Lieutenant-Governor on the 5th day of October, A.D.* 1875

The Committee of Council have had under consideration the annexed Report of the Honorable the Attorney-General with reference to the Report of the late Minister of Justice to His Excellency the Governor-General, approved by His Excellency in Council, and communicated to your Honor by a Despatch from the Under Secretary of State, dated 5th April, 1875, the subject being certain sections of four Statutes passed at the Third Session of the Second Parliament of Ontario.

The Committee concur in the Report of the Honorable the Attorney-General, and submit the same for the approval of your Honor, and advise that a copy thereof be transmitted to His Excellency the Governor General.

Certified.

(Signed) J. G. SCOTT,
Clerk Executive Council, Ontario.

The Honorable
The Provincial Secretary of Ontario.

Report of Mr. Attorney-General Mowat.

The undersigned has had under consideration the Report of the late Minister of Justice to His Excellency the Governor General, approved of by His Excellency in Council, and communicated to His Honor the Lieutenant-Governor by a Despatch from the Under Secretary of State, bearing date 5th April, 1875, the subject being certain sections of four of the Statutes passed at the Third Session of the Second Parliament of Ontario.

The undersigned begs to submit the following observations upon this Report:—

1. Objection is made to part of the twenty-seventh section of Chapter five of 37 Victoria, "The Ballot Act of 1874." This section provides that "no person shall," amongst other things, "forge or counterfeit, or fraudulently alter, deface or fraudulently destroy, any ballot paper, or the name or initials of the Deputy Returning Officer signed thereon;" and that "any person guilty of any violation of this section shall be liable, if he be a Returning Officer, to imprisonment for any term not exceeding two years, with or without hard labor, and if he be any other person, to imprisonment for any term not exceeding six months, with or without hard labor." The Report suggests that it is not within the competence of the Provinces to legislate on the subject of forgery, and that the clauses quoted will be in conflict with the Dominion Act 32 and 33 Vic., chap. 19, or some sections thereof.

It is probably the forty-fifth section of the Dominion Act, with which the Ontario enactment is supposed to be in conflict. That section is as follows:—"Whosoever maliciously, and for any purpose of fraud or deceit, forges any document or thing written, printed or otherwise made capable of being read, or utters any such forged document or thing, knowing the same to be forged, is guilty of felony, and shall be liable to be imprisoned in the Penitentiary for life, or for any term not less than two years, or to be imprisoned in any other gaol or place of confinement for any term less than two years, with or without hard labor, and with or without solitary confinement; and the wilful alteration, for any purpose of fraud or deceit, of any such document or thing, or of any document or thing, the forging of which is made penal by this Act, shall be held to be a forging thereof." Reading this section in connection with the rest of the Act, it does not appear certain that the section will be held by the Courts to apply to ballot papers, which are the creation of a subsequent Provincial Statute, and until that question is placed beyond doubt by Judicial decision, it is expedient that the Provincial Legislature should take care that in no event such an act of wrong-doing should escape liability to punishment, and the punishment provided by the Ontario Act is less than that provided by the Dominion Act. Experience has shown that it is impossible for either a Provincial Legislature or the Dominion Parliament, in the public interest, to abstain from legislation on matters the jurisdiction as to which may be open to more or less of question, as the Dominion Statute books, as well as the Statute books of the Provinces, from the time of Confederation, amply illustrate.

The criminal law is among the subjects of exclusive jurisdiction by the Dominion Parliament. But the Ballot Act is (with the exception of the clause in question) admitted to have been within the jurisdiction of the Ontario Legislature to pass; and a Provincial Legislature has, by the British North America Act, express power to provide for imposition or punishment by fine, penalty or imprisonment, for enforcing the law of the Province, in relation to any matter coming within the jurisdiction of the Legislature. The Dominion Parliament may have authority to give additional force to Provincial Enactments, by making the violation of a Provincial Law a criminal offence, and such a jurisdiction was assumed when it was enacted (31 Vic., chap. 71, sec. 3, Dominion), that "any wilful contravention of any Act of the Legislature of any of the Provinces within Canada, which is not made an offence of some other kind, shall be a misdemeanor, and punishable accordingly." If the Dominion enactment first quoted (32 and 33 Vic., chap. 19, sec. 45) applies to the forgery of ballot papers, the penalties imposed by the Dominion and Provincial Statutes may, in strict construction, be regarded as cumulative, rather than conflicting, or at worst, the Provincial Enactment is void.

2. The next objection to our Legislation relates to parts of two sections of the "Act to make further provision for the due Administration of Justice" (Chap. 7), by which the new Appeal Judges thereby provided are required to be "selected from the Judges, for the time being, of the Court of Queen's Bench, Chancery and Common Pleas, or from such Barristers as are eligible to be appointed Judges of those Courts;" and by which the precedence which the Judges of the Appeal Court shall have is laid down. The first of these enactments is said to be *ultra vires*, because the ninety-

sixth and ninety-seventh sections of the British North America Act impose no such restriction on the authority of the Governor General to appoint the Provincial Judges. It may be observed that, though we have assumed that the Appeal Court Judges are to be paid and appointed by the Dominion Government, the Judges expressly mentioned in the ninety-sixth section are the Judges of "the Superior, District and County Courts" only, and the Court of Error and Appeal is not a "District" or "County" Court; nor is it one of the Courts which, by our law, was at the time of the passing of the British North America Act, called "Superior Courts," that expression being defined by the Consolidated Statutes (Canada), Chap. 2, sec. 8, as meaning the Courts of Queen's Bench, Chancery and Common Pleas. Apart from this consideration, it is to be noticed that the qualifications of the Judges of these Courts had been already provided for by Chap. 10, sec. 7, Chap. 12, sec. 4; and that at the date of the British North America Act the Court of Error and Appeal consisted of the existing Judges of these three Courts, and any retired Judge of any of them. The Ontario Statute, in authorizing the additional Judges to be appointed to the Court of Appeal, put an end to the necessity of such new Judges being Judges or retired Judges, of the Superior Courts, and provided that the selections of other than Judges, should be of Barristers "eligible to be appointed Judges of those Courts." The Judgeships being new, their qualifications had to be defined; and the Legislative jurisdiction to define them was surely that which had the power and responsibility belonging to "the Administration of Justice," and "the Constitution of the Courts." The Ontario Legislature was not prepared to authorize the creation of the new Judgeships unless the qualification of the new Judges should be required by law to be those, already enacted of other Judges, and it was for the Dominion Government to consider whether they would accept the Provincial Act with the provision, or would take the responsibility of disallowing the Act, because these qualifications were demanded. If the Legislature had been attempting to impose new restrictions on the appointment of Judges, provided for by Legislation, before the British North America Act, the case would have been open to observations inapplicable to the Statute now in question.

As to providing by Provincial Legislation for the precedence of the Judges among themselves, the undersigned apprehends that such a provision is part of the "Constitution of the Courts," as to which the Provincial Legislatures have express jurisdiction, and is as clearly within the authority of the Provinces, as is the regulation of the precedence of the Bar (36 Vic., Cap 4, Ontario). It may be observed, also, that the precedence of the learned Judges in Appeal, as amongst themselves, was regulated by a Statute from a very early period (see Consolidated Statutes, Upper Canada, Cap. 10, sec. 6; Cap. 12, sec. 4, &c.) The argument that in England all matters of precedence belong, in the absence of Legislation, to Her Majesty, may be admitted; for in the present case there is Legislation; and the notion that no matters of Prerogative can be legislated upon by any of the Confederated Provinces, the undersigned submits that he has, in his Report (on the Escheat Act), dated 17th February, 1875, shown to be an error. A copy of this Report, annexed to a copy of a Minute of Council approving thereof, was, on the 22nd day of February, 1875, transmitted to the Dominion Government.

The next objection to Ontario Legislation appears to be one of form merely. It relates to two sections (184 and 189) of the Consolidated School Law, Cap. 28, which designate the violation of certain provisions as "misdemeanor." The violation of a Provincial Law having been made a misdemeanor by the Dominion Act, 31 Vic., Cap. 71, sec. 3, the undersigned, in his Report of 8th December, 1873 (transmitted to the Dominion Government with a copy of a Minute of Council approving thereof, on the 16th January, 1874), pointed out the propriety and usefulness of adopting in Provincial Acts the designation thus given by the Dominion Act, to such acts of wrongdoing. But as it is Dominion legislation alone which appears to give to the violation of a Provincial Law the name of misdemeanor, and as, notwithstanding that Legislation, the Dominion Government has a second time objected to the use of the term in our Legislation, the undersigned recommends that, as a matter of courtesy, the use of the term be avoided for the future.

The last objection of the late Minister of Justice refers to certain sections of the Act respecting the sale of fermented or Spirituous Liquors (37 Vict., Cap. 32, Ontario). But it is unnecessary to discuss this objection, inasmuch as, since the Report of the late Minister of Justice was made, the Court of Error and Appeal, in the case of Regina *vs.* Taylor, has decided that the enactments complained of were within the jurisdiction of the Legislature, and are valid.

(Signed) O. MOWAT,
Attorney-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th November, 1874.

The undersigned has the honor to report, that in the Session of the Legislature of the Province of Ontario, held in the 37th year of Her Majesty's reign, on the 24th March, 1874, was passed an Act, chapter 8, intituled: "An Act to amend the Law respecting Escheats and Forfeitures."

The Act provides in effect that, whenever lands, &c., situate in Ontario, have (1) escheated to the Crown by reason of intestacy without lawful heirs, or have (2) become forfeited, whether for treason or felony, or any other cause, the Attorney-General may cause possession of such lands, &c., to be taken, in the name of the Crown.

It also provides that the Lieutenant-Governor in Council may grant lands which may be so escheated or become forfeited, with a view of restoration to any of the family of the person to whom it had belonged, and the same without entry or inquest of office being found.

The Act also provides that the Lieutenant-Governor in Council may make any assignment of personal property to which the Crown is entitled (1) by reason of the person last entitled thereto having died intestate, without kin or other persons entitled to succeed thereto, or (2) by reason of forfeiture of the same to the Crown; and further, that the Lieutenant-Governor may waive or release the right of the Crown in such property.

The undersigned is strongly inclined to entertain the opinion that this law is not within the competence of a Local Legislature, upon the following grounds, viz.:—

First, as to Escheats.

The law of England (except in so far as the same may have been affected in England by Statute law, not applicable to Canada) prevails in the Province of Ontario.

The practice prior to Confederation was for the issue, under the Great Seal of the late Province of Canada, of Her Majesty's writ to Commissioners, requiring them to summon a jury to ascertain the particulars of the estate, and its escheat to the Crown, and upon inquisition held, and return thereof, the same was fyled in the Court of Queen's Bench of Upper Canada (now Ontario).

The question is, whether circumstances are now varied, and whether escheat being a prerogative of the Crown, anything is to be found in the British North America Act by which the same is devolved upon the Government of a Province. Unless, therefore, any such power is, by that Statute, conferred upon the Local Government, the exercise of Her Majesty's prerogative would rest with the Governor General of Canada as Her Representative.

The undersigned is not aware of any grounds upon which the Legislature of a Province can assume a right to legislate as to the prerogative right of escheat, unless it be claimed under:

(*a*) Section 92, sub-section 13, "property and civil rights in the Province," or;
(*b*) Section 109, which provides that, "all lands belonging to the several Provinces of Canada at the date of the Union are to belong to the several Provinces of Ontario * * * * in which the same are situate."

As to the first point, concerning "property and civil rights" in the Province, it appears to the undersigned, that so long as lands escheat to the Crown by reason of failure of issue (or from any other cause, if such there be, as distinct from forfeiture) the Legislature of a Province, under the powers guaranteed to it in respect to property and civil rights by the 92nd section of the British North America Act, 1867, cannot legislate or take any action, in derogation of the rights of Her Majesty.

No prerogative rights of the Crown are vested in the Lieutenant-Governor of a Province, unless it be under the British North America Act; nor does his Commission, issued by the Governor General under the Great Seal of Canada, confer on him the right of using or exercising any prerogative.

There would, therefore, be no authority in the Lieutenant-Governor to exercise the prerogative of the Crown in respect to escheat, nor would the Legislature have competence to deal with such right, or to confer any powers on the Lieutenant-Governor in respect thereof; nor would the Queen be bound by any Acts of a Local Legislature in "respect to property and civil rights" arising in regard to Her Crown. If, however, they lay claim under the 109th section of the British North America Act, 1867, the latter cannot apply, inasmuch as that section has reference alone to lands belonging to the Province of Canada * * * * at the date of the Union, and in such case the section would give no power to Ontario to deal with such lands as might become escheated to the Crown since the date of the Union, 1st July, 1867.

Moreover, if the 109th section of the British North America Act is relied upon, it must be remembered that such has reference to what are known as "Crown lands" as distinguished from (B.N.A. Act, schedule 3, sec. 9) Ordnance lands, and (B.N.A. Act, sec. 91, sub-sec. 24) Indian lands, and that the Act could not, if it applied to any lands, apply to the two latter classes.

Second, as to Forfeitures.

The Act of Ontario provides (1) that whenever any lands have become forfeited, whether for treason or felony, or for any other cause, the Attorney-General may cause possession to be taken in the name of the Crown, &c., and that the Lieutenant-Governor in Council may make any grant of forfeited lands, or any assignment of personal property to which the Crown is entitled (1) by reason of the person last entitled thereto having died intestate and without leaving any kin, or (2) by reason of the same having become forfeited to the Crown.

The forfeiture of lands or personal property for treason or felony (or for other cause than forfeiture for want of heirs) is also a matter of prerogative right of the Crown, the power of granting the same after the forfeiture has accrued to the Crown has not, by the British North America Act, been conferred upon a Province or its Lieutenant-Governor, and it must still, therefore, continue to be administered by the Governor General of Canada as Her Majesty's representative.

The Act of Ontario tends to confer power on the Lieutenant-Governor in Council to restore lands or personal property, forfeited for crime, to the family of the person to whom the same had belonged. This is in effect giving the power to exercise an attribute of pardon in the prerogative of mercy.

Moreover, forfeiture is to be regarded as a matter of criminal law and criminal procedure—subjects which, by section 91 of the British North America Act, sub-section 27, are within the exclusive Legislative jurisdiction of the Parliament of Canada.

It should also be mentioned that the subject of forfeiture by corruption of blood has been already partially dealt with by the Act of Canada of 1869, 32 and 33 Vic., Chap. 29, sections 55 and 56. These sections provide that, except for certain offences,

the attainder shall not disinherit the heir ; but only the right of the offender during his natural life.

The Act of Ontario will be found to be in conflict with this provision of the Act of Canada.

In either view, therefore, whether, as affecting Her Majesty's prerogative, or as entrenching upon the criminal law or criminal procedure, the undersigned is of opinion that the Legislature of a Province has no power to legislate in respect to forfeitures to the Crown, of land or personal property.

But the Statute deals also with forfeiture of personal property, by reason of want of kin or other person entitled to succeed thereto.

The views expressed above, in reference to escheats, are, in a great measure, applicable to this point.

The undersigned is equally of opinion that, under the head of "property and civil rights," no Provincial Legislature can exercise authority, in respect to the right of the Crown, to the personal property of an Intestate, leaving no persons capable of inheriting.

The undersigned recommends that communication should be had with the Lieutenant-Governor of Ontario to the above effect, suggesting that the Act in question is beyond the Legislative competence of the Legislature of Ontario, and that the same should therefore be repealed.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th November*, 1874.

On a Report, hereunto annexed, dated 18th November, 1874, from the Hon. the Minister of Justice, stating that in the Session of the Legislature of the Province of Ontario, held in the thirty-seventh year of Her Majesty's reign, on the twenty-fourth March, 1874, was passed an Act (Chapter 8), intituled: "An Act to amend the Law respecting Escheats and Forfeitures," and recommending, for the reasons set forth in said Report, that communication be had with the Lieutenant-Governor of Ontario, suggesting that the Act in question is beyond the Legislative competence of the Legislature of Ontario, and that the same should, thereof, be repealed.

The Committee concur in the above recommendation, and submit the same for Your Excellency's approval.

They also advise that a copy of the Report of the Minister of Justice be transmitted to the Lieutenant-Governor of Ontario.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Crawford to the Secretary of State of Canada.

GOVERNMENT HOUSE, TORONTO, 22nd February, 1875.

SIR,—With further reference to your Despatch of the 28th November last, respecting the disallowance of the Act passed by the Ontario Legislature, in reference

to "Escheats and Forfeitures," I have now the honor to transmit, for the consideration of His Excellency the Governor General in Council, copy of an Order in Council, approved of by me on the 22nd of February, 1875, together with copy of Report on the subject, by the Honorable the Attorney-General of this Province.

I have, &c.,

(Signed) JOHN CRAWFORD.

The Honorable
The Secretary of State, Canada.

COPY *of an Order in Council, approved by His Honor the Lieutenant-Governor, the 22nd day of February, A.D.* 1875.

The Committee of Council have had under consideration the annexed Report of the Honorable the Attorney-General, with reference to an Order of His Excellency the Governor General in Council, dated 27th November, 1874, on the subject of the Act of the Legislature of this Province, 37 Vic., cap. 8, intituled: "An Act to amend the law respecting Escheats and Forfeitures."

The Committee concur in the said Report of the Attorney-General, and submit the same for Your Excellency's approval, and advise that a copy thereof be transmitted to His Excellency the Governor General.

Certified.

(Signed) J. G. SCOTT,
Clerk Executive Council, Ontario.

The Honorable
The Provincial Secretary.

Report of Mr. Attorney-General Mowat.

The undersigned has had under consideration the Report of the Deputy Minister of Justice, dated 18th November, 1874, with reference to the Act to amend the law respecting Escheats and Forfeitures, passed 24th March, 1874, which Report was concurred in by the Minister of Justice, and approved by an Order of the Privy Council, dated 27th November.

Copies of these Papers having been received here during the late Session of the Ontario Legislature, it was impossible for the undersigned to give to them immediate attention.

The undersigned trusts that after the Minister of Justice has had an opportunity of reading and considering what the undersigned has now to submit, in support of the Act of the Ontario Legislature, he will not hesitate to withdraw the concurrence which, in the absence of any statement of the Provincial view, he was led to express in the forcibly stated, but *exparte* opinion and recommendation, of his Deputy. The undersigned ventures to affirm (notwithstanding the arguments of the Deputy Minister of Justice to the contrary) that the Act in question was not *ultra vires*, but was entirely within the authority of the Legislature to pass, and that, if this is not clear, the proper course will appear to be, confirmatory Legislation on the part of the Dominion Parliament, and not the disallowance of the Act, or its enforced repeal.

The matter is not likely to be very important to the Dominion or Provincial Exchequer, but is important for the principle on which the recommendation of the

Report is based. Property escheated or forfeited in the Dominion for crime, is too small for any contention about it, even if the custom were for such property to be applied to public uses; and property escheated for want of heirs or next of kin has also amounted, hitherto, to very little. The undersigned is aware of but one estate of any considerable amount which is supposed to have escheated for want of heirs; and this estate is now in litigation in Chancery, and is confidently claimed by several persons as being the legal heirs of the deceased. But when escheats and forfeitures occur, it has not been usual for the Crown in England, or this country, to take advantage of them for the benefit of the Crown, or the Public. The course, according to British usage, is stated in the books to be, that, upon a memorial being presented, "the Crown will often make a grant of escheated property to persons having moral claims upon the Intestate; as, for instance, illegitimate children, to whom the property has been given by an invalid will," &c., &c.; "and in the same manner, it is stated that in practice the goods of felons are rarely, if ever, seized to the Crown's use." That, where "a grant *must* be procured in order to make a title, either to the convict's forfeited or escheated estates in land, or to his leaseholds, money in court, or in the hands of parties requiring a valid discharge for it," the practice is for the convict's relatives, who conceive that they are fit objects, to memorialize the Treasury, setting forth the facts relating to the property, and any circumstances favorable to the application, such as the indigence and good character of the memorialists, and on such memorial the desired grant is generally made.

All this, so far as regards lands, appears to be done in England under the authority of an Imperial Statute, 39 and 40 George III, Cap. 3, which is not in force in Canada; and that Statute was the basis on which the 4th, 6th and 7th sections of the Ontario Act were framed. In this respect our Act but brings the Law of the Province into harmony with what has been the law of Great Britain for three-quarters of a century.

The other sections of the Act (viz., the 1st, 2nd and 4th) have for their object the abolition of a preliminary process, which had its origin in a state of society that has happily passed away, even in England—a process which is cumbrous, expensive, and of no practical utility at the present day. These provisions were framed in order to place the Crown in the same relation to escheated or forfeited property as, in analogous cases, private individuals occupy in regard to property in general.

1. With regard to the right to such property, and to the jurisdiction to legislate respecting it, it is to be remembered that, while property of this kind in the British North American Provinces before Confederation, was in the Queen's name, as all other public property was, and is, it did not belong to Her Majesty personally, and for her private use; nor did it belong to the Empire at large. On the contrary, such property, like ungranted and unappropriated wild lands, belonged to the Provinces. And the Provinces have still all former rights which have not been taken from them, or which they have not themselves parted with.

The Confederation Act contains no clause repealing the old constitutional Acts which governed the Provinces, or declaring that all unenumerated rights founded upon, or derived under the former Acts, or otherwise possessed by the Provinces, were to lease, or were to vest in the Dominion; and it is not pretended that the Act contains any provision which would give this property in the Dominion, if a provision for that purpose is necessary.

Either, therefore, escheated and forfeited property belongs still to the Provinces, or the Crown at Confederation resumed all Provincial rights which the Confederation Act did not deal with, an alternative which is wholly unsupportable, and which the undersigned trusts that the Authorities of the Dominion, as well as those of all the Provinces, will at all times unite in repudiating. The undersigned assumes it to be undeniable that all rights of the Provinces as they existed before Confederation have, by the Confederation Act, been divided between the Dominion and the Provinces, and that whatever has not been given to the former is retained by the latter.

The undersigned submits that these considerations (not touched upon by the report of the Deputy Minister of Justice) are absolutely conclusive on the present

question, for if escheated and forfeited property belongs to the Provinces, the Provincial Legislatures have certainly a right to deal with it, as falling under the head of "Property and civil rights in the Province."

2. But the express language of the British North America Act happens to contain enough to establish the same view affirmatively from the Act itself. Lands, mines, minerals, royalties and other "public property" (an expression which, in English law, includes personal property as well as real), theretofore belonging to each Province, are, by the 109th and 117th sections, declared to continue to belong to such Province, will, however, being and continuing to be in Her Majesty's name, but having long before, by express recognizance or tacit argument, become to all intents and purposes the property of the Provinces, to be used and administered by the Provincial authorities for the use and advantage of the Provinces, so that such property, in the view of the Imperial Parliament, "belonged" to the Provinces before the passing of the British North America Act. Such was the right of the Provinces, not only with regard to lands which had never been the subject of Grant by the Crown, but to lands also, which had been sold by the Crown, but not patented; and to lands which had once been granted, but had subsequently been surrendered for Provincial use, and to lands in respect to which Her Majesty had any sort of right or interest, in trust for the Provinces. The lands and other public property thus undoubtedly belonging to the Provinces, amount to many thousand times more in extent and value, than all the escheated and forfeited property which will come into existence in half a century.

Now Escheat is one of the few remaining incidents of the feudal tenure, and arose under the old feudal system *per defectum sanguinis* from the want of a tenant to perform the services to the Lord, of whom the land was held or *per defectum tenentis* by corruption of blood by attainder, the escheat was not to the Crown unless the Crown happened to be also the Lord of whom the land was held; and many of the lands in England were held of mesne Lords, and not of the Crown.

This right of Escheat was called by the old writers a species of Reversion.

All the lands in Ontario are held of the Crown, and not of a mesne Lord, and the Crown retains in them (though limited by modern legislation) this right of escheat.

On ordinary principles of construction the right so retained must be taken to have been included, and was included, like a reversion after a grant heretofore made for life or years, in the general words of the 109th and 117th sections of the British North America Act. It is impossible to suppose (and nobody does, in fact, suppose) that the Imperial Parliament meant to except such a right from the operation of these sections, and what Parliament must be taken to have meant, is the test of what any enactment legally signifies.

The doctrine of the Report would deprive all the Maritime Provinces of *maritima incrementa*, and of lands become *derelict* by the sudden desertion of the sea. These belong to the Queen by her prerogative, but, under our system of Confederation, the trust would surely be for the Provinces, and not for the Dominion; and if the trust is for the Provinces, the Provinces have a right to legislate and deal with such lands to the same extent, and in the same way, as they deal with other Crown lands which belong to the Provinces.

The undersigned agrees with the Report that the Ontario Act cannot apply, nor was it designed to apply, to Indian, or to Ordnance lands. These lands were expressly reserved by the British North America Act to the Dominion; and while they remain ungranted, they cannot possibly be liable to escheat or forfeiture.

3. Were the considerations thus advanced less conclusive than they are, an additional argument might be drawn for the Provincial claim, from the position of the Provinces with reference to the administration of justice.

The Confederation Act assigns to the Provincial Legislatures, power to make laws in relation to the "administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts." But it has always been presumed that the Provinces not only have jurisdiction to make

laws in relation to the administration of justice, but that on the Provinces, under Confederation, is imposed the executive duty, which the Provinces had before, of administering justice in the Queen's name, and of bearing the expense of such administration, and the Province of Ontario, being under this obligation, it has been admitted that the fees payable to the Crown on our legal proceedings since Confederation, should of right, and do, belong to the Province; and that the labor of Ontario criminals who do not go to the Dominion Penitentiary, should also belong to the Province. Surely the occasional forfeitures which take place for crime may, with equal reason, be construed and implied to go to the Province, as incident to the administration of justice.

It is impossible to draw any appreciable line of distinction; and, if it were possible, there is no just reason or good object for drawing a distinction between the right to the Crown fees, which occur on almost every proceeding, and the profits of criminal labor, on the one hand, and the right to the Crown forfeitures on the other hand.

4. A further argument in favor of the jurisdiction, is to be drawn from the express authority of Provincial Legislatures to make laws in relation to all matters of merely "private and local nature."

5. Public convenience is obviously in favor of such property being dealt with by the Province, where the question arises, and of such property being or becoming the property of the Province for this purpose; and a policy recognizing that convenience would favor all the Provinces equally, and contravene no interest of the Dominion. Even when such cases arise in Ontario they may be far more conveniently dealt with by the Province, than by the Executive Authority at Ottawa, but, where such cases occur in the more distant Provinces of the Dominion, say in British Columbia, on the one side, and Prince Edward Island on the other, the convenience of Provincial, instead of Dominion action in dealing with them, is too palpable for anybody to question it. Without Local Officers to attend to such matters, the Dominion interest in them would be a shadow, and the duty of investigating and deciding from so great a distance, the moral or legal claims of third persons, would be costly and often impracticable. It need hardly be observed that, in doubtful questions on the construction of Statutes, the argument *ab inconvenienti* is a recognized canon of interpretation. *Argumentum ab inconvenienti, plurisnum valet in lege*, indeed Lord Coke laid down the rule more strongly, asserting frequently that *nihil quod est inconveniens est lictum.*

If there were any technical answer to these arguments as to our right, property escheated or forfeited after Confederation, would be a *casus omissus*; would be a class of property not thought of when the Act was framed, and therefore, not provided for; and, in dealing fairly and honestly with the Act, such property should, in that case, as matter of mutual agreement and just obligation, be treated by all parties as it may be presumed that the Act would have provided, had the case been present to the minds of those who settled or accepted the Act, as our constitutional charter.

The report of the Deputy Minister of Justice makes several objections to the Act in question, and the undersigned will now remark on those. One objection is that the Act is in conflict with the Dominion Statute, which confines forfeiture of lands to the life of the convict. This objection seems to refer to the third section of the Ontario Act, which provides for the granting of escheated and forfeited lands; but the fact is overlooked that the third section refers to lands escheated for want of heirs, as well as to lands escheated or forfeited for crime, and does not assume, as the Deputy Minister of Justice seems to do, that the estate to be granted is necessarily a fee, or more than a life estate; but, on the contrary, provides for any interest being granted. The section must be read, *reddendo singula singulis.*

The Report of the Deputy Minister of Justice objects to the provision which authorizes the Lieutenant-Governor in Council to transfer escheated or forfeited property to any one or more of the family of the person, to whom the same had belonged, the Report suggesting that this provision is, in effect, giving to the Lieutenant-Governor the power to exercise an attribute of pardon, on the prerogative of mercy. The undersigned has already mentioned that the enactment corresponds

with an Imperial enactment, which has for many years been in force in England, and the objection to its adoption by the Legislature of Ontario, may be answered by a reference to social consideration.

1. So far as regards the "legal" claims to which the Act refers, the right of the Crown or public in forfeited property is subject to such claims independently of the Act; and, as to the "moral" claims, to which, also, the Act refers, if the property is ours, we must have the right of dealing with it as we choose.

2. The power contained in the Act is not to give forfeited property back to the criminal, while a pardon, where it affects the property at all, restores it to the criminal, and he may thenceforward dispose of it regardless of all moral claims.

3. Another satisfactory answer may be drawn from those enactments of the Parliament of Canada before Confederation, which gave to Municipalities or Informers, the fines and forfeitures that Parliament imposed for violations of duty. As this parliamentary disposition of fines and forfeitures had often taken place, there can be nothing unreasonable in holding that other forfeitures continue since Confederation to go to the Provincial Governments.

The argument that the Act enables the party entitled to the forfeiture to forego part of the punishment which the laws had assigned to the offence, would be at least as applicable to the fines which go to Municipalities or Informers, as to the forfeitures which the Act in question assumes to go to the Provinces; and, if the objection is good at all, it is, beyond all comparison, stronger as applied to the former than as applied to the latter.

The Deputy Minister of Justice thinks that the circumstances of the right to escheats and forfeitures being a prerogative right, affords an argument against the Ontario Act.

The undersigned disputes this notion. The recognized modern doctrine is, that all prerogative rights are trusts for the benefit of the people; and it is easy to demonstrate that, far more of what is prerogative, falls within the acknowledged authority of the Provinces, than within the authority assigned to the Dominion, and that many prerogative duties and rights devolve upon the Lieutenant-Governor, not by the express terms of "The British North America Act," but from the nature of the office which he holds. Thus, Grants from Provincial Governments continue of necessity to be made in the Queen's name; and all proceedings in the Provinces for the administration of justice, which, before Confederation, were in the Queen's name, continue of necessity to be in the Queen's name still.

In practice the Provincial Statutes also are expressed to be by Her Majesty, with the advice and consent of the Legislative Assembly; and the Lieutenant-Governor, before proroguing Parliament, assents, in the Queen's name, to the Bills which have been passed. If one thing more than another is matter of prerogative, it is the administration of justice. The Sovereign is said, by legal and constitutional writers, to be the "fountain of justice," and to have an "inherent right" inseparable from the Crown, to distribute "justice" amongst His and Her subjects. So it is said to be the Sovereign prerogative "to see to the execution of the laws;" and by the 9th section of the Confederation Act "the Executive Government and authority of and over Canada is declared to continue and be vested in the Queen." This plainly includes the Executive Government and authority of the Province as well as of the Dominion; the executive authority under the Act being executed partly by the Governor General, and partly by the Lieutenant-Governors. When the British North America Act commences to set out the provisional constitutions, the first subject treated of is under the head of "executive power." The Lieutenant-Governor, or any one discharging the duty of the Lieutenant-Governor, is called in the 62nd section "the chief executive officer;" the 63rd section provides for an "Executive Council" in Ontario and Quebec, the 64th Section declares that "the constitution of the executive authority in Nova Scotia and New Brunswick shall, subject to the provisions of the Act, continue as it existed at the Union, until altered under the authority of the Act;" the 65th section provides that, all powers, authorities and functions which, under any Imperial or Provincial Act were, at the Union,

"vested in, or exercisable by the respective Governors, or Lieutenant-Governors" shall, as far as the same are capable of being exercised after the Union, in relation to the Governments of Ontario and Quebec, respectively, be vested in and exercised by the Lieutenant-Governors under the new system; and by the 82nd section it is directed that the Lieutenant-Governors of Ontario and Quebec shall, "from time to time, in the Queen's name, * * summon and call together the Legislative Assembly of the Province." The Act gives no full enumeration or general statement of the duties of the Lieutenant-Governor. To a large extent his duties and authorities are left to be implied and inferred from his character as Lieutenant-Governor or "chief executive officer," and from the known constitutional rights and duties, theretofore, belonging to the office of a Lieutenant-Governor, so far as relates to the Government and Legislation of the Provinces.

A further illustration of the same argument may be drawn from other considerations. Thus, the soil in our local roads is vested in the Queen, so also is the bed of our navigable streams and rivers. Nobody has hitherto gainsaid our right to legislate for changing our roads and disposing of those which we abandon; or for building bridges, or authorizing ferries to cross the rivers and streams of the Province, though we thus deal with what are technically matters of prerogative. Military roads alone are the property of Canada (3rd schedule); and the only ferries with which the Dominion has to do are "ferries between said Province and any British or foreign country or between two Provinces."

So, also another prerogative of the Sovereign, according to English law, is the care of the persons and property of minors, lunatics and idiots; it has not hitherto been doubted (and the undersigned apprehends there is no reason for doubting), that Provincial Legislatures have their property under their control; and since Confederation various Provincial Acts have from time to time been passed with respect to them, which the Dominion authorities never questioned on this ground, and which our Courts have recognized and acted upon as valued laws. There is nothing in the "British North America Act" devolving this prerogative upon the Governor or Legislature of the Province, unless it is to be found in some of those general provisions which the undersigned has already quoted.

These considerations show that there is no reason for presuming against a claim of the Provinces, though the subject may be what is technically, matter of prerogative, and has not been expressly assigned to the Lieutenant-Governors.

The undersigned may add, that on coming into office he found that the Governments of the late Mr. Sandfield Macdonald and Mr. Blake had regarded escheated and forfeited property as belonging to the Province, and as within provincial jurisdiction, and had acted on that view.

The Surrogate Court here, and the Court of Chancery also, have assumed the jurisdiction to be Provincial, and acted accordingly.

It thus appears that the jurisdiction of a Provincial Legislature and Executive to deal with such matters rests on the strongest grounds, and that none of the objections suggested to the Act are sustainable; and the undersigned has considerable confidence that the Minister of Justice and his Deputy will, on consideration, coincide in this conclusion.

If, in view of the whole matter, the Minister of Justice is not prepared at present to yield to the argument of strict constitutional or legal right in the Provinces, the undersigned cannot doubt that he will think it both expedient and just to recommend to the Dominion Parliament to pass at its present Session, an Act, confirming what has been done in Ontario; and, either expressly giving escheated and forfeited property to the Provinces, or distinctly recognizing by a declaratory enactment their right to such property, unless he should be content with advising non-interference by the Dominion authorities. Any such course would be in accordance with much that has been done in dealing with Provincial Legislation hitherto. By a Report of the Minister of Justice to the Privy Council, dated 8th June, 1868, printed in the Ontario Sessional Papers (Vol. 1. No. 19), it was justly laid down to be "of importance that the course of Local Legislation should be interfered with as little as

possible, and the power (of disallowance) exercised with great caution, and only in cases where the law and general interests of the Dominion imperatively required it."

In the same Report it was recommended "that where a measure is considered only partially defective, or where objectionable as being prejudicial to the general interests of the Dominion, or as clashing with its Legislation, communication should be had with the Provincial Government with respect to such measure, and that in such case the Act should not be disallowed, if the general interests permit such a course, until the Local Government has an opportunity of considering and discussing the objections taken, and the Local Legislature has also an opportunity of remedying the defects found to exist." The same Minister, in accordance with the principles he so enunciated, declined on various grounds, recommending the disallowance of several Provincial Statutes containing provisions which he regarded as *ultra vires*. Sometimes recommending confirmatory legislation to be submitted to the Dominion Parliament, and sometimes leaving to the Courts to decide the question of the validity, if it should ever be raised.

All which is respectfully submitted.

(Signed) O. MOWAT.

17th February, 1875.

Mr. Assistant Secretary Eckhart to the Secretary of State of Canada.

TORONTO, 3rd June, 1876.

SIR,—I am directed to acknowledge the receipt of your Despatch of 22nd ultimo, together with a copy of an Order of His Excellency the Governor General in Council, on the subject of the Act of the Legislature of this Province respecting escheats and forfeitures, and the correspondence in reference to that Act.

I am further directed to intimate that the Honorable the Attorney-General has been instructed to make such preliminary arrangements as are required to be made, in order to have the contention of the Province with reference to the questions mentioned in the Report of the Committee of Council, supported before the Supreme Court by Counsel for the Province.

I have, &c.,

I. R. ECKHART,
Assistant Secretary.

The Honorable
The Secretary of State for Canada,

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th March, 1875.

The undersigned has had under consideration the Report of the Executive Council of the Province of Ontario, upon the Report of the Attorney-General of that Province, on the Act passed on the 24th March, 1874, respecting Escheats and Forfeitures.

The Report of the Attorney-General differs with the view expressed in the Order of the Privy Council of the 27th November, 1874, and affirms:—

1. That the Act in question is not *ultra vires*, but is entirely within the authority of the Legislature to pass; and

2. That if this is not clear, the proper course will appear to be confirmatory Legislation on the part of the Dominion Parliament, and not the disallowance of the Act, or its enforced repeal.

The undersigned quite concurs with the Attorney-General that the matter is important not as affecting the exchequer, but as to the principle; and that property escheated or forfeited, whether for crime or for want of heirs, has amounted to but little, and that the Crown has, in Canada, never sought to retain the same for its own benefit or that of the public; but has given it to the parties who, but for the escheat, would have been entitled thereto.

The course of British usage in this particular, and set forth by the Attorney-General in the third page of the Order of the Executive Council, is that which has been strictly followed in Canada.

On all these preliminary subjects the undersigned is quite in accord with the views expressed by the Executive Council.

With reference, however, to the paragraphs which refer to the right of property and the jurisdiction to legislate respecting it, the undersigned has the honor to remark as follows:

As to the first paragraph; this suggests:

1. That all property which was in the Queen's name prior to Confederation, belongs to the Provinces; and,

2. That all rights of the Provinces as they existed before Confederation, have by the Confederation Act been divided between the Dominion and the Provinces; and that whatever has not been given to the former is retained by the latter.

As to the first point, that is settled by the 108th and 117th sections, but is apparently thereby confined to property in the Queen's name at the date of the Union.

As to the second point, it is submitted that the view represented is hardly correct; but that, on the contrary, whatever right has not been given to the Provinces, is vested in the Dominion. This is peculiarly observable in the 91st and 92nd sections as to Legislation. The former confers powers on the Queen, by and with the advice and consent of the House of Commons, in relation to all matters not coming within the classes of subjects by that Act assigned exclusively to the Legislatures of the Provinces; and,

2. It gives exclusive Legislative authority in certain matters by classes; and

3. Provides, in conclusion, that any matter coming within any of the classes of those subjects, shall not be deemed to come within the class of matters of a local or private nature, assigned exclusively to Provincial Legislatures.

On the other hand, the Legislature, which is defined to consist, as regards Ontario, of the Lieutenant-Governor and of one House, styled "The Legislative Assembly of Ontario," has exclusive Legislative competency in relation to matters of which the classes are specially defined.

Therefore, as the undersigned believes, escheats to be a matter of prerogative, and not a question of "property and civil rights," there seems no reason to depart from the view expressed in the Order of the Privy Council, that no prerogative rights of the Crown are vested in the Lieutenant-Governor of a Province, unless under the Confederation Act, and that, unless that Act can be found strictly to confer upon the Lieutenant-Governor, or the Legislature of a Province, an express right to deal with any matter of prerogative, such power is not vested in either the one or the other authority.

It may not be out of place here on this point, to quote from the Despatch of Her Majesty's Secretary of State for the Colonies, of the 7th January, 1875, to the Governor General, in reference to the sentence passed in Manitoba upon one Lepine. It is as follows:—

"The Lieutenant-Governors of the Provinces of the Dominion, however important, locally, their functions may be, are a part of the Colonial Administration Staff, and are more immediately responsible to the Governor General in Council. They do not hold Commissions from the Crown, and neither in power nor privilege resem-

ble those Governors of Colonies to whom, after special consideration of their personal fitness, the Queen, under the Great Seal, and Her own hand and Signet, delegates portions of Her prerogatives, and issues Her own Instructions."

It is to be remembered, also, how great a difference exists in reference, not only to the Legislative powers of a Parliament or Legislature, but the very distinct difference as to the component parts of each of those bodies.

The Parliament of Canada is defined to consist of the Queen, the Senate and the House of Commons, and the mode of Legislation by the Parliament is defined to be that of the Queen, by and with the advice and consent of the Senate and House of Commons.

On the other hand, the Legislature of each Province has a different definition. Taking that of Ontario, for instance, it is found to consist of the Lieutenant-Governor, and of one House styled "The Legislative Assembly of Ontario."

It is true that the Legislatures of the different Provinces in enacting laws have used the terms "Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province" (or, in respect of Ontario, of the Legislative Assembly of Ontario alone), and it may have been thought expedient to adopt that formula; yet, little doubt can be entertained that the same is incorrect; that the enacting party should be, under section 92, "The Legislature" of the Province, and that a Lieutenant-Governor has no power to assent to any laws of a Legislature in the Queen's name, inasmuch as the Queen herself has not that power, and cannot, therefore, depute it.

The only instance in which, to the knowledge of the undersigned, there is an express delegation to a Lieutenant-Governor of privileges of the Crown, is in the commission to the Governor General, the 6th section of which is thus worded: "And We do further authorize and empower you to exercise, from time to time, as you may judge necessary, all powers lawfully belonging to Us, in respect of assembling or proroguing the Senate or the House of Commons of Our said Dominion, and of dissolving the said House of Commons, and We do hereby give the like authority to the several Lieutenant-Governors for the time being, of the Provinces of Our said Dominion, with respect to the Legislative Councils, or the Legislative or General Assemblies of those Provinces respectively."

In practice, the Lieutenant-Governor of Ontario appears to have exercised this right, in so far as assembling or dissolving the Legislative Assembly; but in respect to the proroguing, the Journals of that Legislature show that it is done in the name of the Lieutenant-Governor.

These allusions are made as supporting the view already expressed, that the Parliament of Canada, to which the Queen is an actual party by name, and the actual enacting power, by and with the advice and consent of the two Houses of Parliament, is the only Legislative power which can operate in matters not left to the Provincial Legislatures; and that the Queen, not being in any way an enacting party or power, of such a Legislature, Her Majesty's name is improperly used in Provincial Legislation, and even if so used, such user cannot justify any abandonment of prerogative or privilege which is not vested in the Provincial Legislature by the 92nd section.

As to the *second* paragraph, the undersigned repeats that sections 109 and 117 allude merely to lands and public property belonging to the Provinces at the time of the Union, and that if property escheated, whether for want of heirs, or for crime, subsequently to the date of Confederation, it cannot be included as lands or property belonging to the Provinces at the time of the Union.

As to lands sold by the Crown, prior to Confederation, but not patented, the fee, so to speak, still remains in the Crown for the Provinces; but under the 109th section the Provinces took such lands, subject to the trust of carrying out the sale whenever the purchaser complied with the terms thereof—similarly as to lands which had once been granted, but which had subsequently been surrendered for Provincial use; and, also, to lands in respect to which Her Majesty had, on the 1st July, 1867, no sort of right or interest, but in trust for the Provinces.

As to the *third* paragraph, it does not seem to controvert the point that escheat is not within the jurisdiction of a Local Legislature; and as to the *fourth* paragraph it can hardly be contended that escheat is a matter of a merely private and local nature.

The *fifth* paragraph remarks that public convenience is obviously in favor of such property being dealt with by the Province where the question arises.

This is a question of expediency, and it is very possible that the arguments urged in the Order of the Executive Council are entitled to weight. It cannot, however, affect in any way the question of Legislative competency, which is the one question with which the undersigned proposes to deal.

Upon a reconsideration of the case, the undersigned is unable to arrive at any other conclusion than the following .—

Firstly,—That escheat is a matter of prerogative, which is not, by the British North America Act, 1867, vested in a Provincial Government or Legislature.

Secondly,—That is not one of the subjects coming within the enumeration of subjects left exclusively to Provincial Legislatures.

Thirdly,—That a Provincial Legislature, by its very Statutable composition, has no power to deal with prerogatives of the Crown.

Fourthly,—That Lieutenant-Governor has not, under the Statute, or by his Commission, any power to deal with prerogatives of the Crown; and not being empowered to assent, in the Queen's name, to any law of a Provincial Legislature, he cannot bind Her Majesty's prerogative rights.

Fifthly,—That the 109th and 117th sections of the British North America Act, 1867, refer only to lands and public property of the several Provinces at the date of the Union, subject to the reservations in section 108, and schedule 3.

Sixthly,—That escheat cannot be dealt with under section 92, sub-section 5, in respect to the management and sale of the public lands, belonging to the Province; or sub-section 13, as to property and civil rights in the Province; or sub-section 16, as being a matter of a merely local or private nature in the Province.

Seventhly,—That forfeiture for want of heirs is virtually escheat, and that forfeiture for crime and corruption of blood is a matter of criminal procedure.

The Report further submits that if, in view of the whole matter, it is not considered proper at present to yield to the argument of strict constitutional or legal right in the Provinces, the Executive Council cannot doubt that it will be just to recommend to the Dominion Parliament to pass an Act confirming what has been done in Ontario; and either expressly giving escheated and forfeited property to the Provinces, or distinctly recognizing by a declaratory enactment, their right to such property, or by a non-interference on the part of the Dominion authorities.

The undersigned is not prepared to say whether Parliament can confer on a Provincial Legislature the power to legislate in respect to a matter of Royal prerogative; or to recognize the right of a Province to escheated property; nor does he feel justified in suggesting that the Act in question should be allowed to go into operation.

He, therefore, feels it incumbent to advise that the Act of the Legislature of the Province of Ontario, passed on the 24th of March, 1874, intitled :

" An Act to amend the Law respecting Escheats and Forfeitures " be disallowed by Your Excellency in Council.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *April*, 1875.

The Committee have had under consideration the Report, hereunto annexed, from the Hon. the Minister of Justice, having reference to an Act passed by the Legisla-

ture of the Province of Ontario on the 24th March, 1874, intituled : "An Act respecting Escheat and Forfeitures," and, for the reasons therein given, they advise that the said Act be disallowed, and that a copy of the said Report be transmitted by the Secretary of State, for the information of the Government of Ontario.

Certified.

(Signed) W. A. HIMSWORTH,
C.P.C.

Copy of Proclamation disallowing the above mentioned Act.

GOVERNMENT HOUSE, OTTAWA, THURSDAY, 1st day of April, 1875.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of the said Province did, on the 24th day of March, 1874, pass an Act which has been transmitted, entitled as follows, viz : "An Act to amend the Law respecting Escheats and Forfeitures ; "

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and, therefore, recommending that the said Act should not receive the confirmation of the Governor General ;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Ontario on the 24th day of March, 1874, entitled : "An Act to amend the Law respecting Escheats and Forfeitures," was received by me on the 2nd day of April, 1874.

Given under my hand and seal this 1st day of April, 1875.

[L.S.] (Signed) DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th March, 1875.

The undersigned, to whom is referred the Statutes of the Province of Ontario, passed on the 24th March, 1874, has the honor to recommend that Your Excellency

do not exercise the right of disallowance of the Statutes undermentioned: Chaps. 1 to 4 inclusive, Chaps. 9 to 27 inclusive, Chaps. 29 to 31 inclusive, Chaps. 33 to 99 inclusive, and Chaps. 101, 102 and 103.

(Signed) H. BERNARD,
D.M.J.

I concur.

(Signed) T. FOURNIER,
M.J.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *April*, 1875.

The Committee have had under consideration the Report dated 27th March, 1875, from the Hon. the Minister of Justice, to whom was referred the Statutes of the Province of Ontario, passed on the 24th March, 1874, and they concur in the recommendation therein submitted, that Your Excellency do not exercise the right of disallowance of the Statutes therein mentioned.

Certified.

(Signed) W. A. HIMSWORTH,
C.P.C.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th May, 1876.

The undersigned begs to refer to the several Reports of his predecessors upon the subject of the Act of the Province of Ontario, passed on the 24th March, 1874, Chap. 8, entitled: "An Act to amend the Law respecting Escheats and Forfeitures," and to the Despatches from the Lieutenant-Governor of Ontario with reference to that Act.

Differences of opinion having arisen between the two Governments upon the legal questions involved in this correspondence, and the Act referred to, having been disallowed, as beyond the competence of the Provincial Legislature, it appears to the undersigned important that these questions should be determined, and the undersigned has reason to believe that the Government of Ontario is prepared to assent to their submission under the 52nd clause of the Supreme and Exchequer Court Act to the Supreme Court for hearing and consideration.

The undersigned accordingly recommends that the following questions be referred, under the said clause, to the Supreme Court for hearing and consideration, *i.e.* :—

1. Whether, since 1st July, 1867, any, and which of the following subjects be the property of the Crown for the Province of Ontario, or that of the Crown for the Dominion of Canada,—

(*a*). Lands in Ontario escheated to the Crown by reason of intestacy without lawful heirs;

(*b*). Personal property in Ontario forfeited to the Crown by reason of intestacy and want of kin, or other persons entitled to succeed; or

(*c*). Lands or personal property in Ontario forfeited to the Crown for treason or felony, or for any other cause?

2. Whether, in case the escheat or forfeiture took place before 1st July, 1867, the same or different, and if so, what rules apply?

3. Whether the laws relating to any, and which of those subjects, be within the competency of the Legislature of Ontario?

The undersigned recommends that a copy of this Minute be transferred to the Lieutenant-Governor of Ontario with a view to the necessary preliminary arrangements for the argument.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 19*th May*, 1876.

The Committee of Council have had under consideration the Report dated 18th May, 1876, from the Hon. the Minister of Justice in which he refers to the several Reports of his predecessors upon the subject of the Act of the Province of Ontario, passed on the 24th March, 1874, intituled: "An Act to amend the Act respecting Escheats and Forfeitures," and to the Despatches from the Lieutenant-Governor of Ontario with reference to that Act.

The Minister states that differences of opinion having arisen between the two Governments, upon the legal questions involved in this correspondence, and the Act referred to having been disallowed, as beyond the competence of the Provincial Legislature, it appears to him important that these questions should be determined, and that he has reason to believe that the Government of Ontario is prepared to assent to their submission under the 52nd clause of the Supreme and Exchequer Court Act, to the Supreme Court for hearing and consideration.

The Minister accordingly recommends that the following questions be referred, under the said clause, to the Supreme Court for hearing and consideration, *i.e.*:—

1. Whether, since 1st July, 1867, any, and which of the following subjects, be the property of the Crown for the Province of Ontario, or that of the Crown for the Dominion of Canada,—

(*a*). Lands in Ontario escheated to the Crown by reason of intestacy without lawful heirs;

(*b*). Personal property in Ontario forfeited to the Crown by reason of intestacy and want of kin, or other persons entitled to succeed; or

(*c*). Land or personal property in Ontario forfeited to the Crown for treason or felony, or for any other cause?

2. Whether, in case the escheator forfeiture took place before 1st July, 1867, the same or different, and if so, what rules apply?

3. Whether the laws relating to any, and which, of these subjects, be within the competence of the Legislature of Ontario?

The Minister further recommends that a copy of this Minute be transmitted to the Lieutenant-Governor of Ontario, with a view to the necessary preliminary arrangements for the argument.

The Committee submit the above recommendations for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th October, 1876.

The undersigned begs to refer to the Order in Council of 19th May, 1876, upon the subject of escheats and forfeitures, and to the various Reports upon the same subject. In the Report on which that Order was founded, the undersigned recommended a reference to the Supreme Court, with the consent of the Province of Ontario, of certain questions, with a view of disposing of the legal point involved.

The undersigned was led to recommend this course, for the following reasons:

1st. With reference to forfeitures for treason, or other like cause, it was, as it is, the opinion of the undersigned that such forfeitures appertain exclusively to Canada.

2nd. With reference to escheats and forfeitures of land and personal property for want of heirs and representatives, although the opinion of the undersigned was adverse to the pretensions of Canada, yet the views entertained by his predecessors on this subject, and the course of action which had been pursued by the Government, seemed to him to render it improper that he should recommend the abandonment of the position theretofore taken, without a solemn, judicial decision. The undersigned was not insensible of some inconvenience which might arise from the presentation of the question in the manner proposed, but it seemed, at that time, to be, upon the whole, the best mode of reaching a solution. Since that time, however, a Judgment, which had been obtained in the Superior Court of Quebec, in favor of the rights of Canada, has been appealed, and by the unanimous judgment of the Court of Queen's Bench, Appeal side, of Quebec, composed of Mr. Chief Justice Dorion, Mr. Justice Monck, Mr. Justice Ramsay, Mr. Justice Sanborn and Mr. Justice Tessier, reversed.

The undersigned refers to a copy of this Judgment, which he appends to this Report. It appears to the undersigned that the more correct mode of obtaining the decision of the Supreme Court would be by prosecuting an Appeal from that Judgment; but independent of a question which arises as to the practicability of appealing, the undersigned is disposed to attach much weight to the unanimous Judgment to which he has referred, and he is of opinion that it has so altered the circumstances, as to render proper the adoption of a different course by the Government of Canada.

The undersigned has reason to believe that the Government of Ontario is prepared to assent to the plan which he is about to propose. The undersigned recommends that the Order in Council of 19th May be rescinded, and—

1. That for the future, unless there should be a judicial decision overruling that to which he has referred, the Government should act upon the assumption that lands and personal property in any Province, escheated or forfeited by reason of intestacy without lawful heirs or next of kin, or other persons entitled to succeed, are subjects appertaining to the Province, and within its Legislative competence, and that the Government of Canada should decline to interfere in such matters.

2. That for the future, as in the past, unless there should be a Judicial decision establishing the contrary view, the Government of Canada should act upon the assumption that lands and personal property, forfeited to the Crown for treason, felony or other like cause, are subjects appertaining to Canada, and within its Legislative competence.

3. That, in pursuance of this policy, the Government should leave to their operation Provincial Statutes, otherwise unobjectionable, dealing with the first of these subjects, but should disallow Provincial Statutes dealing with the second of them.

The undersigned recommends that a copy of the Order in Council based on this Report, be transmitted to the Lieutenant-Governors of the several Provinces; and that the various persons who have applied to the Government of Canada to act in matters arising out of the first of these subjects, should be informed that, having regard to the Judicial decision referred to, the Government declines to interfere.

(Signed) EDWARD BLAKE,
Minister of Justice.

COURT OF QUEEN'S BENCH.

CANADA,
Province of Quebec,
District of Quebec. } (Appeal Side).

Quebec, Friday, the eighth day of September, one thousand eight hundred and seventy-six.

Present:

The Honorable A. A. DORION, Chief Justice.

The Honorable Mr. Justice MONCK, The Honorable Mr. Justice SANBORN,
" " RAMSAY, " " TESSIER.

No. 67.

The Attorney-General for the Province of Quebec (Plaintiff in the Court below), Appellant, and Damase Caron, of the Parish of St. Patrice de la Rivière du Loup, Burgess (Defendant in the Court below), and the Attorney-General for the Dominion of Canada (intervening party in the Court below,) Respondent.

The Court of Our Lady the Queen now here, having heard the Appellant and Respondent, by their Counsel respectively, examined as well the record and proceedings had in the Court below, as the reasons of appeal filed by the Appellant, and the answers thereto and mature deliberation on the whole being had; considering that, by the admissions of the parties to the issue raised upon the intervention filed by the Hon. Attorney-General for the Dominion of Canada, acting in this behalf for Her Majesty the Queen, that the late Edward Fraser, whose estate is claimed by the Hon. Attorney-General for the Province of Quebec, acting also in this behalf for Her Majesty, the Queen, died at Rivière du Loup, in the Province of Quebec, about the second day of February, one thousand eight hundred and seventy-four, without heirs and intestate, and according to the pretensions of both parties, he left an estate which hath escheated to the Crown. And considering this is one of the sources of revenue which, as a minor prerogative of the Crown, was yielded up to the respective Provinces now Confederated into the Dominion of Canada, prior to the Union of the Provinces of Canada, Nova Scotia and New Brunswick, and that such escheat, prior to the said Union, formed part of the revenues of respective Provinces where they arose.

And considering that by the British North America Act of 1867 such revenues as were subject to the appropriation of the respective Legislatures of Canada, Nova Scotia and New Brunswick, and which are revised by the several Provinces since the Union, in accordance with the special powers conferred upon them by that Act, belong to said Provinces. And considering as having jurisdiction over the law of descents, by virtue of its jurisdiction over property and civil rights in the Province under the said Act, the Legislature of the Province of Quebec is invested with power to appropriate this casual revenue to itself.

And considering that amongst other things, it is declared by the said British North America Act of 1867, that all royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, in which the same are situate or arise, and that escheats, such as the one in question, are royalties.

And, considering that such estate is composed of real as well as personal property, and that all territorial Crown rights and privileges possessed by the late Provinces of Canada, Nova Scotia, and New Brunswick, before the Union thereof into the Dominion of Canada, have been at the Union given to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, and the law of escheats by reason of want of heirs is of feudal origin, and cognate with the law of tenures.

And, considering that by the general tenor of the Act of Union, and the division of assets and revenues, it is manifest that a casual local revenue like the one in question, was intended to be left to the local Province.

And, therefore, considering that there is error in the judgment rendered in this cause in the Superior Court at Kamouraska, on the 29th day of January, 1876, and now in Appeal, in maintaining the intervention of the Honorable the Attorney-General for the Dominion of Canada, claiming said estate of the said late Edward Fraser, as belonging to the Dominion of Canada, and not the Province of Quebec, doth reverse the said Judgment, and proceeding to render the Judgment which the Court below ought to have rendered, doth maintain the appeal of the Attorney-General for the Province of Quebec in this cause, and doth reject the petition in intervention of said Attorney-General for the Dominion of Canada.

And it is further ordered that the Record be remitted to the Superior Court at Kamouraska.

A true copy,

(Signed) F. LANGELIER.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee of Council have had under consideration the Memorandum, hereunto annexed, from the Honorable the Minister of Justice, having reference to the Order in Council of the 19th May last, upon the subjects of escheats and forfeitures, and to the various Reports thereon; and they respectfully recommend that the plan proposed by the Minister of dealing with the question be approved, and the recommendations submitted in the said Memorandum be acted on.

Certified.

(Signed) W. A. HIMSWORTH
Clerk Privy Council.

Mr. Assistant Secretary Eckhart to the Secretary of State of Canada.

TORONTO, 2nd December, 1876.

SIR,—I am directed to transmit to you, herewith, a copy of an Order of His Honor the Lieutenant-Governor in Council, and of the Report of the Honorable the Attorney-General therein referred to, on the subject of escheats and forfeitures, and to request that the same may be laid before His Excellency the Governor General for the information of his Government.

I have, &c.,

(Signed) I. R. ECKHART,
Assistant Secretary.

The Honorable the Secretary of State,
Ottawa.

COPY *of an Order in Council approved by His Honor the Lieutenant-Governor the 24th day of November, A. D.* 1876.

The Committee of Council have had under consideration the annexed Report of the Honorable the Attorney-General, having reference to an Order of His Excellency

the Governor General in Council, dated the 25th October, 1876, upon the subject of escheats and forfeitures,and the Committtee advise that the said Report of the Attorney-General be approved of by your Honor.

Certified.

(Signed) J. G. SCOTT,
Clerk Executive Council, Ontario.

26th November, 1876.

Report of Mr. Attorney-General Mowat.

TORONTO, 18th November, 1876.

With reference to an Order of His Excellency the Governor General in Council, dated 25th October, 1876, on the subject of escheats and forfeitures, a copy whereof has been transmitted to this Government, the undersigned has the honor to report as follows:—

That the Report of the Minister of Justice, upon which the said Order is founded, refers to a recent decision of the Court of Queen's Bench (Appeal side) of Quebec, affirming the right of that Province to escheats within Quebec, and contains, amongst others, the following recommendations :—

1. That for the future, unless there should be a judicial decision overruling that to which he has referred, the Government of Canada should act upon the assumption, that lands and personal property in any Province, escheated or forfeited by reason of intestacy without lawful heirs or next of kin, or other persons entitled to succeed, are subjects appertaining to the Province, and within its Legislative competence; and that the Government of Canada should decline to interfere in such matters.

2. That for the future, as in the past, unless there should be a judicial decision establishing the contrary view, the Government of Canada should act upon the assumption, that lands and personal property forfeited to the Crown for treason, felony or other like cause, are subjects appertaining to Canada and within its legislative competence.

That the recommendations of the Minister of Justice were approved by the said Order in Council, and now constitute the rule by which the Government of the Dominion will be guided in dealing with escheats and forfeitures.

The undersigned has already, in former Reports, fully treated of the matters in dispute between this Government and the Dominion with reference to this subject, and he is of opinion that the plan of action adopted by the said Order, is, upon the whole, a fair settlement of the matters in dispute, and he, therefore, recommends that, until a judicial decision be given, establishing the contrary to be the law, this Government acts upon the assumptions adopted by the said Order in Council for the gudance of the Dominion Government hereinbefore fully set out.

(Signed) O. MOWAT.

Mr. Chester Draper to the Minister of Justice.

OFICE OF THE PORT WHITBY HARBOR COMPANY, PORT WHITBY, 4th April, 1874.

SIR,—As intimated to you personally a few days since when at Ottawa, I beg nowto call your attention to a Bill, chap. 59, "An Act to amend the Act incorporating the ort Whitby and Port Perry Railway Company," passed at the Session of the

Ontario Legislature, just closed. I may mention, first, that, as you are aware, the Port Whitby Harbor Company purchased the Harbor from the late Government of Canada in 1864. That by the Order in Council transferring the Harbor, riparian owners have certain rights reserved to them as follows: "That any person or persons or any body or bodies corporate now or hereafter holding any land in freehold or for a term of years, bordering on the waters of the said Harbor, and desirous of building any pier or wharf within limits of the said Harbor, which, in the opinion of the Commissioner of Public Works of the said Province, will not obstruct the proper using of the said Harbor, shall have the right to build such pier or wharf into the waters of the said Harbor in front of such land, having first obtained the authority in writing of the said Commissioner so to do." By this you will observe "bodies corporate" have such power, which I take it? would apply to a Railway Company. Now the point is this: the Port Whitby and Port Perry Railway Company, not being willing to avail themselves of the rights reserved to riparian owners, gave notice of their intention to apply to the Local Legislature for "power to build piers, docks, warehouse, &c., within the limits of the Harbor." To this proposition the Harbor Company of course objected—first, upon the ground that the Railway Company could only build piers into the waters of the Harbor as riparian owners in the manner prescribed by the Order in Council; and, secondly, that the Local Legislature had no jurisdiction within the limits of any of the public Harbors, they, by the British North American Act, being declared to be the property of Canada. Besides this, the "trade" and "navigation" of all the great lakes, rivers, &c., come so clearly under Dominion authority, that there seemed hardly room for a doubt as to the question of jurisdiction. But as there were doubts expressed, and being anxious myself to know whether the rights of the Harbor Company could be interfered with by the Local Legislature, I concluded to consult some of our best Lawyers in the west, whom I though ought to be authority upon such a subject. I consequently consulted Messrs. Crooks, Kingsmill & Cattanach, Messrs. Harrison, Osler & Moss, as likewise the Hon. Edward Blake; and I now purpose laying before you the pith of each of their replies. First, then, Messrs. Crooks, Kingsmill & Cattanach say:

"If the Company (meaning the Railway Company) wishes to have any other powers than the General Act and the Order in Council give, application must be made to the Dominion Parliament. This is clearly one of those matters, in which the Provincial Legislature has no jurisdiction.

"The Order in Council, which by statute has *the force of law*, also gives riparian owners for all time, the right of building piers under certain restrictions, so that no application would be necessary on their part for legislative authority. The restriction referred to is that the Railway Company must *first obtain the authority in writing of the Minister of Public Works.*

"Signed) CROOKS, KINGSMILL & CATTANACH."

Messrs. Harrison, Osler & Moss say:—

"It is difficult to anticipate what rights of the Company are likely to be interfered with at the instance of the 'Port Whitby and Port Perry Railway Company,' unless it be to permit the Railway Company, owning land upon the shore of the Harbor, to build piers into the waters of the Harbor, &c.

"The Order in Council transferring the Harbor to the Company, as you point out in your letter of the 26th ult., makes ample provisions for the construction of wharves by persons or bodies corporate having land on the shore of the Harbor, and should it be an interference with the *navigation* of the Harbor, other than such as contemplated by the Order in Council transferring the Harbor, I apprehend the Dominion Legislature only would have jurisdiction.

"I cannot, however, think that any special privileges would be granted to the Railway, or any other Company at the expense of the Harbor Company, by other Legislature, without full notice to the Harbor Company and full consideration of

such arguments as may be addressed to the Legislature by the Harbor Company, in opposition to any proposed legislation.

"(Signed) R. A. HARRISON."

On the same point the Hon. E. Blake says:—

"The inclination of my mind is, that the action of the Parliament of Canada would be necessary in order to authorize the Company to do anything which would interfere with the navigation, either of the lake or Harbor; whether building a pier out into 'high' or 'deep' water would do so, is not a question for a Lawyer.

"(Signed) E. BLAKE."

These opinions, you will observe, all point to but one conclusion, viz., that the Provincial Governments have no jurisdiction, but notwithstanding, a Bill did pass the Local House here, by a majority of four (4), having for its object giving the Port Whitby and Port Perry Railway Company power to cross the property of the Harbor Company with "sidings," and to build either "on" or "without the said Harbor." The meaning being simply this: that the Railway Company may first use the property of the Harbor Company by the mysterious word "on," and having once crossed over to the outer or eastern breakwater, they can then commence and erect piers, butting on the property of the Harbor Company, but really without the Harbor, by virtue of the words, "or without the said Harbor," and in this way it is proposed to take from the Harbor Company their vested rights. The Bill I refer to, is Bill No. 83, to "amend the Act incorporating the Port Whitby and Port Perry Railway Company." The objectionable clause being No 11, or, rather, the objectionable part being embodied in that clause.

The Harbor Company throw themselves entirely upon the protection of the Dominion Authorities, trusting that they will not allow any infringment upon their rights, as vested in them by the Order in Council which has the force of *law;* but that all persons, bodies, bodies corporate, &c., shall *only* be allowed to build piers into the waters of the Harbor ,under and by virtue of the reservation set out in Order in Council, by which the Harbor was vested in its present owners.

I beg, therefore, to submit for your consideration, as to whether His Excellency the Governor General should not be advised to withhold his assent from that portion of the Bill which, by implication, assumes the Local Legislature to have jurisdiction "on the Harbor" or "without the Harbor," meaning "on" Lake Ontario, outside *the breakwaters* or "on" the Harbor within its limits.

I have, &c.,

(Signed) C. DRAPER,
President Port Whitby Harbor Co.

P.S.—If necessary, I will send down a formal Petition for His Excellency, praying that the Bill may be disallowed.

(Signed) C. D.

To the Honorable the Minister of Justice,
Ottawa.

Mr. Chester Draper to the Deputy Minister of Justice.

OFFICE OF THE PORT WHITBY HARBOR COMPANY, June, 1874.

SIR,—I had the honor, some little time since, of calling the attention of the Hon. the Minister of Justice and yourself, to the Bill, No. 59, of the Ontario Legislature, passed at its last Session (1874), or rather that part of clause eleven (11) of said Bill, having for its object the granting of certain power to the Port Whitby and Port Perry Railway within the limits of the Harbor, by allowing them to put down one or more sidings "on" or "in the Harbor," as stated in my former letter, to which I again call your attention. I am advised that it is beyond the competence of the Local Legislatures to interfere with public Harbors, they being, by the British America Act, under the jurisdiction of the Parliament of Canada; and if this be so, the Bill in question should not receive the assent of His Excellency the Governor General.

The Order in Council transferring the Harbor, as you are aware, gives ample powers to riparian owners whether corporations or individuals (see clause ninth), for building piers into the waters of the Harbor. And as this Order has *the force of law* the Harbor Company contend that the Railway Company can only enter the harbor under the condition laid down, and to which they do not object. But that the Local Legislatures cannot give any power to the Railway Company whereby the general powers of the Railway Act can be made to apply to the land, *covered by the waters of the Harbor.*

Will you kindly give this matter your grave consideration, as it is one deeply affecting the Harbor Company.

I have, &c.,

(Signed) C. DRAPER.
President Port Whitby Harbor Co.

H. BERNARD, Esq.,
Deputy Minister of Justice,
Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th March, 1875.

The undersigned has the honor to report that an Act was passed by the Legislature of Ontario, in the 37th Victoria, Chaptered 59, and intituled: "An Act to amend the Act incorporating the Port Whitby and Port Perry Railway Company."

Mr. Chester Draper, President of the Port Whitby Harbor Company, prays that this Act be disallowed, on the ground that it intrenches on rights vested in the Harbor Company, and also that the Act is calculated to interfere with navigation.

The Railway Company was incorporated by the Legislature of Ontario in 1868, and power was given for the construction of a Railway from such point within the limits of the Town of Whitby, on the shore of Lake Ontario, or within the limits of the public Harbor known as the Port Whitby Harbor, and now the property of the Port Whitby Harbor Company, as to the Directors of the Company may appear expedient.

There are various Acts amending this Act of 1868, but not affecting the present question, and the section referred to by the report of the Harbor Company is the 11th of the present Act, which provides that the Company shall have full power to extend their Railway from some point at or near the town of Whitby, * * * "and also to build one or more sidings from some point or points in or near to the

town of Whitby to some point or points in or near the Whitby Harbor, or without the said Harbor, so far as this Legislature has jurisdiction to grant such authority and right, but subject to the rights of the Crown and to the terms and conditions set out and contained in, Order in Council of the late Province of Canada having reference to said Harbor,"—and the section continues by giving the powers of the Railway Acts, and by the Railway Special Act, to every extension and siding, &c., but "subject to the rights of the Crown and the Order aforesaid."

The Order in Council to which reference is made in the Act is that of 1864, under which the Harbor was transferred to the Port Whitby Harbor Company, and contains a provision to the effect, "that any person or persons, or any body or bodies corporate, now or hereafter holding any land in freehold, or for a term of years, bordering on the waters of the said Harbor, and desirous of building any pier or wharf within the limits of the said Harbor which, in the opinion of the Commissioner of Public Works of the said Province, will not obstruct the proper using of the said Harbour, shall have the right to build such pier or wharf into the waters of the said Harbor, in front of such land, having first obtained the authority in writing of the said Commissioner so to do."

Exception is taken by Mr. Draper, on behalf of the Port Whitby Harbor Company, to the power given to the Railway to build sidings "on or near the Whitby Harbor or without the said Harbor," but it will be observed that the restriction is made "so far as the Legislature of Ontario has jurisdiction to grant such authority and right, but subject to the rights of the Crown and to the terms of the Order in Council."

Now, one of the provisions of the Order in Council referred to is, that no pier or wharf shall be built, which, in the opinion of the Commissioner of Public Works of the said Province (that is, the now Minister of Public Works of Canada), will obstruct the proper using of the Harbor.

The undersigned is of opinion that it is within the competence of the Legislature of Ontario to pass the Act, and that as the rights of the Crown in respect to navigation are reserved by the Order in Council, and by the wording of the *eleventh* clause of the Act in question, that Your Excellency should not be advised to exercise the right of disallowance of the Act.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1*st April*, 1875,

The Committee of Council have had under consideration the Report, hereunto annexed, from the Honorable the Minister of Justice, having reference to an Act passed by the Legislature of the Province of Ontario on the 24th March, 1874, chap. 59, intituled: "An Act to amend the Act incorporating the Port Whitby and Port Perry Railway Company," and they respectfully report their concurrence therein, and accordingly advise that the said Act be not disallowed.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Langevin to Mr. Chester Draper.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 8th April 1875.

SIR,—I am directed to inform you that His Excellency the Governor General has had under his consideration in Council your letter under date the 4th April, 1874, addressed to the Hon. the Minister of Justice, praying that the Act of the Ontario Legislature passed on the 24th March, 1874, Chap. 59, intituled: "An Act to amend the Act incorporating the Port Whitby and Port Perry Railroad Company," may be disallowed, on the ground that it intrenches on the rights vested in the Port Whitby Harbor Company, and also that it is calculated to interfere with navigation.

His Excellency is advised that the Railway Company was incorporated by the Legislature of Ontario in 1868, and power was given for the construction of a Railway from such point within the limits of the town of Whitby, on the shore of Lake Ontario, or within the limits of the public Harbor known as the Port Whitby Harbor, and now the property of the Port Whitby Harbor Company, as to the Directors of the company may appear expedient.

There are various Acts amending this Act of 1868, but not affecting the present question, and the Section referred to by the Report of the Harbor Company, is the 11th of the present Act, which provides that the Company shall have full power to extend their Railway from some point at or near the town of Whitby. * * * " and also to build one or more sidings from some point or points in or near to the town of Whitby, to some other point or points in or near the Whitby Harbor, or without the said Harbor, so far as this Legislature has jurisdiction to grant such authority and right, but subject to the rights of the Crown, and to the terms and conditions set out and contained in an Order in Council of the late Province of Canada, having reference to said Harbor."

And the section continues by giving the powers of the Railway Acts and by the Railway Special Act to every extension and siding, &c., but " subject to the rights of the Crown and the Order aforesaid."

The Order in Council to which reference is made in the Act is that of 1864, under which the Harbor was transferred to the Port Whitby Harbor Company, and contains a provision to the effect "That any person or persons, or any body or bodies corporate, now or hereafter holding any land in freehold or for a term of years, bordering on the waters of the said Harbor, and desirous of building any pier or wharf within the limits of the said Harbor, which, in the opinion of the Commissioner of Public Works of the said Province, will not obstruct the proper using of the said Harbor, shall have the right to build such pier or wharf into the waters of the said Harbor in front of such land, having first obtained the authority in writing of the Commissioners so to do."

Exception is taken by Mr. Draper, on behalf of the Whitby Harbor Company, to the power given to the Railway to build sidings "on or near the Whitby Harbor, or without the said Harbor; but it will be observed that the restriction is made so far as the Legislature of Ontario has jurisdiction to grant such authority and right, but subject to the rights of the Crown and to the terms of the Order in Council."

Now, one of the provisions of the Order in Council referred to is, that no pier or wharf shall be built which, in the opinion of the Commissioner of Public Works of the said Province (that is now the Minister of Public Works of Canada), will obstruct the proper using of the Harbor.

His Excellency is therefore advised that it is within the competence of the Legislature of Ontario to pass the Act; and that, as the rights of the Crown in respect to navigation are reserved by the Order in Council, and by the wording of the 11th clause of the Act, he should not exercise the right of disallowance.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

CHESTER DRAPER, Esq.,
President Port Whitby Harbor Company,

Mr. Under Secretary Langevin to the Lieutenant-Governor of Ontario.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 8th April, 1875.

SIR,—With reference to my letter of the 5th inst., I am directed to transmit to you, for the information of your Government, an extract from a Report upon which His Excellency was advised not to exercise the right of disallowance in respect of the Act of the Ontario Legislature (Chap. 59), intituled: "An Act to amend the Act incorporating the Port Whitby and Port Perry Railway Company."

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Ontario.

ONTARIO, 38TH VICTORIA, 1875.

4TH SESSION—2ND PARLIAMENT.

Petition of Ministers of Presbytery of Glengarry to Governor General in re Chap. 74.

To the Right Honorable Sir Frederick Temple, Earl of Dufferin and Clandeboye, and Governor General of Canada.

The Petition of the undersigned, being a majority of the Ministers of the Presbytery of Glengarry, Province of Ontario, Dominion of Canada, in our own name, and on behalf of a large number of our co-laborers and adherents in this Province,

HUMBLY SHEWETH:—

1. That your petitioners do respectfully call your attention to Act number seventy-five (75) of the Acts passed in the last Session of the Second Parliament of the Province of Ontario, Dominion of Canada, an Act designated, "An Act respecting the Union of certain Presbyterian Churches therein named," and we humbly submit that the said Act or Acts were passed in such haste as to preclude due notice of its provisions being given to many of Her Majesty's subjects, who are seriously and vitally affected by the same; and its provisions being in excess of that of any private Bill, as it affects others than the applicants for said Act.

2. We submit that a great religious change has been made in the doctrine of the Presbyterian Church of Canada, in connection with the Church of Scotland, by said Act, and that the ancient standards of the Church, that have the most solemn position in its creed and practice, as well as in the Union compact of Her Majesty's Kingdom

of Great Britain, have been violated and changed, which matters of creed and doctrine have been repeatedly sustained as the one, or one of the distinctive features of said Church.

3. We humbly state, that the Act complained of affects a large portion of Her Majesty's subjects, and is wholly without precedent in any other part of Her Majesty's Dominion, wherein said Presbyterian Church, in connection with the Church of Scotland, had a legal recognition and existence; as in the case of former Unions of Presbyterian Churches in any part of this Dominion, these Churches were wholly clerical erections, brought into existence by earnest, zealous Ministers, whose labors were aided by the sympathy and support of such as joined themselves to them; and such congregations, or societies, could not complain of any change made upon the name, doctrine or discipline of such societies, so called into being, and so altered by such clerical guides, in each case, having, as was judged upon every separate change, good and convincing reasons for such ecclesiastical changes; but we and our people stand wholly different in the matter now complained of in and under said Act, as the people who adhered to the Presbyterian Church of Canada in connection with the Church of Scotland, are not followers of, or collected by such as would be leaders in the same, but are joined to it as to the national creed of the land many of our people left; and others were joined to its sacred truths, but, in all cases, separate and distinct from the Pastor.

And the Pastors amongst said people in religious matters, were not chosen for their gifts, but for the name and creed under which they appeared amongst the people who continued, amid many trials, sometimes years being without a Pastor of their own beloved Church; and who do pray to be still allowed to continue said name and Church.

4. We also submit, that said Act limits the toleration laws of the whole Empire to our hurt, and to that of as many as may deem it their solemn duty to continue faithful to vows and obligations freely and solemnly undertaken, as it prevents us and said adherents from continuing in our former peaceful ways, in which we have been accustomed to exercise our religious privileges and ecclesiastical functions, under our most valued name; whilst it permits those who seek our religious destruction to use any name they please.

5. We also submit that the rights of the Queen of these lands, and of such of Her Presbyterian subjects in connection with the Church of Scotland, as a body and as individuals, in so far as they did not personally, or by others duly authorized, seek the change, and that such rights as formerly they each held, are not now fully maintained, as they should be, notwithstanding any provisions of said Act.

6. We submit that said Act affects properties of comparatively great value to parties in so poor and humble a position in earthly matters as we do occupy, who have devoted ourselves to the preaching of religious truths, and such our position has been taken advantage of, as we could not afford to retain Counsel, to hire parties, and make long journeys for united council in this important matter; and to mitigate this wordly poverty, the Imperial Parliament, in its liberality, had made provision for our aid, and individuals in their liberality have added to the same, while the Parliament of Ontario has given nothing, and yet has legislated us out of the Royal gifts of former Kings, as well as the gifts of individual friends, which individual gifts are not yet twenty years in existence; nor has any attempt been made to show that such funds are misappropriated.

7. We also submit, that the Presbyterian Church of Canada, in connection with the Church of Scotland, although disestablished, by and with the consent of the Imperial Parliament, has not been wholly *disendowed;* but large concessions in lands and other benefits have been still left with said Church, and such lands and buildings are inalienably connected with the Church of Scotland, as the deeds thereof do more fully show; and that the Christian denomination who now seek the same did most religiously spurn to take any favors from said Imperial Legislation; and if now any

change of sentiment marks their history, and makes them to repent of the former action, the efforts to possess the rights already assigned were better directed and employed, in seeking from the wealthy Parliament of Ontario, or from the Imperial Parliament, such redistribution as their liberality might see meet to grant.

8. We also submit that the Ecclesiastical Court or Courts, said to have given a legal consent to said Act, were not in their nature and object competent to the same, as they have no jurisdiction except in matters spiritual, and are not recognized by any portion of the people of any land, acquainted with Presbyterian order, in any other matter; and the Act complained of, being wholly earthly and material, was beyond the power of such Spiritual Court, which the promoters of said Act well knew, and that without the material power, such Act joined to the spiritual domain all the power to persecute or wrong your Petitioners, or others, would be futile. Besides, so ill-adapted is said Church Court for any representative purpose of a wordly nature, that the largest number who appeared, and did constitute said Court, are not interested therein, nor beneficiaries, nor sufferers under any such Act in the smallest matters, but are engaged in the many duties of their separate callings in the Dominion, to whom any such change may be little more than a sentiment; and that you may the better understand the same, we assure you that such parties, whom we call Elders, voted four separate times in this matter; once in the public or ordinary meeting; 2nd, in Church Court, we call the Session; 3rd, in another such Court, we call the Presbytery; and 4th in the Court called the Synod; and also, that many such at a former time voted themselves in connection with a Church called the Presbyterian Church of British North America, and now vote away anew the rights of your Petitioners.

9. We submit, that, whilst we do not expect that the doctrinal differences we know to exist, may be understood by us to have directed their enquiries to other fields of thought, nor do we deem any living being a Judge between us, founded as such doctrines are on the Holy Word of God, yet we feel these matters keenly, and complain that such Act prevents us from continuing, as we believe, in that which is wisest and best for God's glory, and our spiritual good; besides we do most emphatically state that we have taken no steps to limit the collective and individual liberty of such parties as are led to see it as a duty to God and their conscience, to separate from us, and even to think they do God service in striving to erase our name and position out of the whole of this Her Majesty's Dominion of Canada; but we are willing to deal with such as once were numbered with us in a spirit of justice as large as we claim, and to make the whole Christian world witness of that equity which is in our laws: "Do unto others as ye would they should do unto you," and this too in any way that said dissentient brethren may deem best, only we do most respectfully claim to be allowed to exist in peace, and in our rights, under the religious toleration of Her Majesty's laws.

10. We do submit, for these and other reasons that press sorely on our spirits, pray that you may submit said Act complained of to your Minister of Justice at Ottawa, with the view that the said Act be disallowed in whole or in part, so that no one need feel oppressed by the same; and we also submit, that we shall furnish such proofs of the civil portions in Act of which we complain, and of the statements made in this our complaint, as far as your Minister is competent to adjudge upon the same, leaving out the doctrinal portions, as will satisfy the Honorable the Minister of Justice of the truth of the same; and that, in view of the injustice and tyranny attempted to be exercised upon us, whether by majorities of thousands or units, for we own no spiritual or civil jurisdiction to mere numbers, nor did we ever promise or agree to be ruled by any such, there being no such dogma in all our creed. So we claim from Your Excellency, as the Representative of Her Most Gracious Majesty, the Queen, in this Her Dominion of Canada, the protection of all our rights and privileges, as long as we are permitted to continue under Her Majesty's laws.

And, in the event of Your Excellency deciding not to act in this grievous wrong nor to grant any redress, either in the partial or total disallowance of said Act of

which we do most humbly complain, we pray Your Excellency to forward this our Petition, accompanied with said Act, to Her Majesty the Queen in Council.

And, as in duty bound, we do humbly pray.

(Signed) THOMAS McPHERSON,
" JOHN DAVIDSON,
" NEIL BRODIE,
per T. McP.
" JOHN S. MacCLAN,
per N. Brodie.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 23rd October, 1875.

With reference to Cap. 75 of the Statutes, passed in the year 1874, by the Legislature of Ontario, intituled : " An Act respecting the Union of certain Presbyterian Churches therein named," and the Petition of the Rev. Thomas McPherson and others, to His Excellency the Governor General in reference to the said Act, referred to the undersigned for report; the undersigned begs respectfully to report as follows:

This Act recites that the Canada Presbyterian Church, the Presbyterian Church of Canada in connection with the Church of Scotland, the Church of the Maritime Provinces in connection with the Church of Scotland, and the Presbyterian Church of the Lower Provinces have severally agreed to unite together and form one body or denomination of Christians, and under the name of " The Presbyterian Church in Canada."

The Act does not purport to accomplish any such union, but it deals with the property " real or personal within the Province of Ontario, now belonging to, or held in trust for, or to the use of any Congregation in connection or communion with any of the said churches." Presumably, the various Congregations whose property is to be affected, are residents of the Province of Ontario, and the undersigned does not think it necessary to consider the question which might be raised under other circumstances.

The undersigned does not conceive that he is called upon to express an opinion upon the allegations of the Petition as to the injustice alleged to be effected by the Act. This was a matter for the Local Legislature.

The 7th clause, however, appears to deal with matters beyond the competence of the Legislature. After providing that Knox College and Queen's College, both institutions in Ontario, shall stand in certain relations to the new body, it provides that the Corporation of the Presbyterian College of Montreal and the Corporation of Morin College at Quebec, shall also stand in certain relations to the new body.

It appears to the undersigned that these portions of the sections are *ultra vires* and inoperative; but he has been informed that like provisions have been made by the Local Legislature of Quebec, and, under any circumstances, he could not recommend that the Act should be disallowed, by reason of this objection.

(Signed) EDWARD BLAKE,
Minister of Justice.

Copy *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd November*, 1875.

The Committee have had under consideration the Report dated 23rd October, 1875, hereunto annexed, from the Hon. the Minister of Justice, having reference to

Cap. 75 of the Statutes passed in the year 1874, by the Legislature of Ontario, intituled: "An Act respecting the Union of certain Presbyterian Churches therein named," and the Petition of the Reverend Thomas McPherson and others, to His Excellency the Governor General, in reference to the said Act referred to him, the Minister, to report, and they submit their concurrence in the views expressed in the said Report, and recommend that the Act be not disallowed.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Langevin to Rev. Thomas McPherson.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 14th December, 1875.

SIR,—I am directed to acknowledge the receipt of your letter of the 8th instant, addressed to His Excellency the Governor General, referring to a memorial submitted by yourself and others in the month of February last, praying for the disallowance of an Act of the Ontario Legislature respecting the union of certain Presbyterian Churches, and to inform you that the subject has received the consideration of His Excellency in Council, and that His Excellency has been pleased to direct that the Act in question be left to its operation.

I have, &c.,

(Signed) E. J. LANGEVIN,
Under Secretary of State.

The Rev. THOMAS MCPHERSON, M.A.,
Lancaster, Ont.

Rev. Thos. McPherson to the Governor General.

LANCASTER, 20th January, 1876.

MAY IT PLEASE YOUR EXCELLENCY:—

I am directed by the Presbytery of Glengarry, in connection with the Church of Scotland, to acknowledge the receipt of Your Excellency's letter, dated 10th December, 1875, informing us "that your Minister of Justice has been called upon to furnish a Report on the prayer of the memorial," whereupon I communicated with the brethren of the Presbytery near me, so as to send one or more of our number to explain to your Minister of Justice the grievances and persecutions we complain of, in accordance with the prayer of our Petition.

Before this arrangement was carried out, for lack of time, I received from Your Excellency's Under Secretary of State the letter No. 2310 on 181, dated at Ottawa, 14th December, 1875, intimating the summarily disposing of our Petition, without giving us any opportunity of being heard in the matter.

Your Excellency cannot but be aware of the strife and contention the Acts have caused in the Province of Ontario amongst the Scotch Presbyterian people, in resisting claims not founded on titles or deeds, but on those Acts complained of, as limiting the toleration laws of the Empire in this Province.

In these circumstances the Presbytery claim from Your Excellency that these Papers, Petitions and Acts, be allowed to remain in *statu quo* until such time as your

Petitioners have made some arrangements to have the prayer of said Petition duly represented before the Queen in Council.

I have the honor to be,

Your Excellency's most obedient servant,

(Signed) THOMAS McPHERSON.

To His Excellency
The Governor General of the Dominion of Canada.

Petition from Members of Presbyterian Church to Governor General.

To His Excellency the Right Hon. Sir Frederick Temple, Earl of Dufferin, &c., &c., Governor General of the Dominion of Canada, &c., &c., in Council:

The petition of the undersigned members and adherents of the Presbyterian Church of Canada in connection with the Church of Scotland,

RESPECTFULLY SHEWETH:

The established existence of the Church of Scotland in Canada was long years since affirmed by the highest Judicial authority of the Empire, in its final determination in favor of that Church; in other words, in favor of the Clergy and Members thereof, in the Colony, for a participation in the Clergy Reserve lands, allotted by the Imperial Acts of 1774 and 1791, for the support of a Protestant Clergy in Canada; thereby, in effect, recognizing the existence of the Presbyterian Church of Canada in connection with the Church of Scotland, as being within the intent of those Acts, no other denominations of Protestant Clergy, at the promulgation of those Acts, having an acknowledged legal existence beside the Clergy in connection with the Churches of England and Scotland in Canada.

From the period of that determination the Presbyterian Church of Canada in connection with the Church of Scotland, in its undivided existence and *quasi* corporate capacity throughout the two Canadas, has not been controverted, but has been sustained by Imperial and Provincial Legislation and by public Acts, in important matters affecting its material and spiritual interests.

In the interest and for the guidance of the Members and Clergy of the said Church, co-extensive with the Province of Canada generally, a Church Synod was formed, in 1831, in conformity with the laws and regulations of the Church of Scotland, under the name of "The Synod of the Presbyterian Church of Canada in connection with the Church of Scotland," which has continued since in active existence and operation.

Under Imperial Statutes for the distribution and division of the Clergy Reserves, the Clergy of the said Presbyterian Church of Canada in connection with the Church of Scotland, received their portion of the proceeds of the said Clergy Reserves, which were secularized for the uses and purposes of their original intention, the support of the Clergy of the Church, and were managed by Commissioners for the said Church, who distributed and paid the several Clergy stipends and allowances, which were afterwards, under Legislative authority, commuted by the said Clergy, to whom they had previously been assigned, and the commutations with their accruals and subsequent contributions for the purpose were formed into a Fund, and compose the Temporalities Fund of the said Church, under the Act of the Province of Canada, 22 Vic., Cap. 66, first Session in 1858, intituled: "An Act to incorporate the Board for the management of the Temporalities Fund in the Presbyterian Church of Canada in connection with the Church of Scotland," which fund, and its accruals and additions are, by the said Act applied as a trust fund, exclusively to the purposes of the said

Clergy and of the said Presbyterian Church of Canada in connection with the Church of Scotland, and to no other existing Presbyterian religious association.

In like manner, an annuity fund was formed by contributions of the Clergy and Members of the said Presbyterian Church of Canada in connection with the Church of Scotland, which was entrusted to Administrators, Members of that Church who were incorporated under the Act of the Province of Canada, 10 and 11 Vic., Chap. 103, intituled: "An Act to incorporate the Ministers', Widows' and Orphans' Fund of the Synod of the Presbyterian Church of Canada in connection with the Church of Scotland," which fund, in the nature of a trust fund, is exclusively to be applicable for the purposes of the Widows and Orphans of the Clergy of the said Church in connection with the Church of Scotland, and none other.

That by the said Acts of Incorporation respectively, the said Corporation thereby enacted and established, were of a general nature, and co-extensive with the said Province of Canada, without distinction or reference to the then local Provinces of Upper Canada and Lower Canada, now Ontario and Quebec, and vested their respective trust funds exclusively for the uses and purposes of the said Presbyterian Church of Canada in connection with the Church of Scotland, and for the exclusive benefit of the beneficiaries in the said Acts mentioned, of the said Presbyterian Church of Canada, in its connection aforesaid, to the exclusion of all separatists and seceders from the said Church.

By virtue of the Royal Letters Patent of 1841, the Presbyterian College, previously established at Kingston in then Upper Canada, now Ontario, by the Presbyterian Church of Canada in connection with the Church of Scotland, for the educational purposes of that Church, was duly incorporated for the Province of Canada aforesaid, under the name of Queen's College, and in continuance of its original intent and object of its establishment, in connection with the said Presbyterian Church of Canada in connection with the Church of Scotland, as in the said Letters Patent expressly declared, which said Royal Letters Patent have since remained undisturbed.

That on the fifteenth day of June last past, divers Ministers and others, heretofore Members of the said Presbyterian Church of Canada in connection with the Church of Scotland, separated and seceded therefrom, and, with divers others in the Provinces of Quebec and Ontario, not Members of the said Church, formed themselves into a voluntary religious association and union, under the name of "The Presbyterian Church in Canada"—to wit: the Dominion of Canada—the said seceders, in the said heretofore Province of Canada, hereby abandoning all right of participation in the said Temporalities and Widows' and Orphans' funds respectively, and in the said Queen's College above mentioned.

That the said voluntary association and union have procured from the Local Legislatures of Quebec and Ontario, Acts of Incorporation for their said union, extending the same throughout the Dominion of Canada, as general Acts for the Dominion of Canada, with authority to appropriate the said Temporalities and Widows' and Orphans' funds to the purposes of the said union, to wit: the said Presbyterian Church of Canada in connection with the Church of Scotland.

That three Acts of the nature complained of were passed by the Legislature of Quebec during its last Session, in the 38th year of Her Majesty's reign, namely, Chapters 61 and 64 respectively, to amend the said Act of incorporation for the Widows' and Orphans' fund management, above intituled, and amendments thereto, and to amend the said Temporalities Act, and Chapter 62, an Act respecting the Union of certain Presbyterian Churches therein named, and two Acts of a similar nature by the Legislature of Ontario, at its last Session, to wit: 38 Vic., Chaps. 75 and 76 respectively, intituled: "An Act respecting the Union of certain Presbyterian Churches therein named," and "An Act respecting Queen's College, at Kingston."

That the subject matters of the said Acts of both Local Legislatures respectively, are not of a merely local or private nature within the said respective Provinces, or either of them, and do not come within the class of subjects exclusively assigned to such Provincial Legislation, but are general in character for the Dominion of Canada,

and affect the civil rights of persons residing in either Province, extra territorial of its jurisdiction, to wit: the Ministers and Members of the Presbyterian Church of Canada in connection with the Church of Scotland, their said rights being general and not provincial in their nature, and indivisible in their disposition, and not susceptible of being abrogated or interfered with, by merely Provincial or Local Legislation, and that such Provincial Legislation has neither been required or asked for by the said Presbyterian Church of Canada in connection with the Church of Scotland, nor by its Ministers and Members who have not separated or seceded therefrom.

That the said Provincial Acts are obnoxious, and subject to disallowance under the provision in that respect of the British North America Act of 1867.

Wherefore, your Petitioners pray, that it may please Your Excellency to disallow the hereinbefore mentioned Statutes passed by the Legislatures of Quebec and Ontario, respectively, purporting to unite the Presbyterian Church of Canada in connection with the Church of Scotland with certain other religious bodies, under the title of "The Presbyterian Church in Canada," and that it may please Your Excellency to declare the said Acts, and each of them, illegal and unconstitutional, and to disallow the same.

And your Petitioners, as in duty bound, will ever pray.

(Signed)	Robert Dobie, Minister,	(Signed)	Lucy McJanet,
"	T. Miller, Elder,	"	Margaret Noble,
"	Charles Downie,	"	Elizabeth MacIntyre,
"	George R. Anderson,	"	Jessie J. MacIntyre, and others.

The Governor General to the Earl of Carnarvon.

OTTAWA, 13th March, 1876.

MY LORD,—I have the honor of transmitting herewith a Memorial which I have received from the Presbytery of Glengarry in connection with the Church of Scotland, forwarding a Petition addressed to Your Lordship, praying that two certain Acts, Caps. 75 and 76, of the Province of Ontario, passed in the 38th year of Her Majesty's reign, may not receive the Royal Assent.

On the receipt of these documents I caused them to be referred to the Minister of Justice, for such observations as he might think fit to make thereon for Your Lordship's information, and I enclose a copy of a Report of a Committee of the Privy Council expressing their concurrence in the views contained in the Memorial annexed, from the Hon. Mr. Blake. I also transmit copies of the several documents to which allusion is made in the Memorial addressed to Your Lordship.

I have, &c.,

(Signed) DUFFERIN.

The Right Hon.
The Earl of Carnarvon.

Rev. Neil Brodie to Governor General.

To the Right Honorable Sir Frederick Temple, Earl of Dufferin and Clandeboye and Governor General of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

The Presbytery of Glengarry, in connection with the Church of Scotland, in accordance with their request that you would be good enough to allow Petition, Papers

and Decisions in matters submitted to Your Excellency regarding certain Acts of the Legislature of the Province of Ontario, passed in the 38th year of Her Majesty Queen Victoria, to remain *in statu quo*, until such time as this Court had made arrangements to have the grievances complained of laid at the foot of the Throne ;

I have to request Your Excellency to be good enough to order Your Secretary to forward same to the Right Honorable the Earl Carnarvon, Her Majesty's Chief Secretary of State for Colonial Affairs, along with this our explanatory Petition, so that the same may come in due course of business before Her Majesty's Council in London.

We have forwarded to the parties whom we expect to appear for us, the decisions of Your Minister of Justice as conveyed to us, and letters received by us, so that the whole may be adjudicated on as at early a date as may be convenient.

I have, &c.,

(Signed) NEIL BRODIE,
Minister of Lochiel, Ont., Presbytery Clerk.

Petition of Presbytery of Glengarry to Colonial Secretary.

To the Right Honorable the Earl of Carnarvon, Her Majesty's Principal Secretary of State for Colonial Affairs.

We, the Presbytery of Glengarry, Province of Ontario, Dominion of Canada, in connection with the Church of Scotland, would humbly submit the following explanatory Statements to Your Lordship, on the matter of the Presbytery above designated, as Petitioners to His Excellency the Governor General of Canada in Council, and carried by formal appeal, with His sanction, to Her Majesty the Queen in Council.

Which explanations humbly sheweth, that by letter, dated 12th February, 1875, from the Department of State, and marked a Petition from the majority of the Ministers of the above designated Presbytery, was duly presented before His Excellency the Governor General of Canada in Council, by one of His Principal Secretaries of State for the Postal Department, and acknowledged, as by letter dated as above, praying for the disallowance of certain Acts passed by the Legislature of Ontario, in the thirty-eighth year of Her Majesty Queen Victoria, being Chapter seventy-five (75) and Chapter seventy-six (76) of said Acts of the Legislature, as our Petition more fully shows; and as the persecutions complained of have been greatly intensified since said Acts were said to have gone into operation.

Our Petition to His Excellency the Governor General in Council was detained, unattended to, at Ottawa, for some ten (10) months, as dates of letters show, marked No. 2310, on 181, and when adjudicated on by the present Minister of Justice we were not allowed to be heard in explanation thereof, as date of reference to him, and date of decision show; and, yet, the time thus lost is brought forward as the reason for refusing us any redress in the premises, and the injustice thereof seems the harder, if Your Lordship causes your Secretary to read the original Petition before you. We do feel that such action, even in Colonial affairs, is at variance to all the precedents of the Empire, in so dealing with any matters brought, respectfully, and constitutionally, before those representing British law and order; and that any instructions, as to being regulated by the "well understood wishes of the people," could have been carried out without overthrowing rights, titles, possessions and benefits, legally and constitutionally held by us and others, now, for many and many a year.

We do feel very sorry to trouble Her Majesty's Council with our affairs, after She had been graciously pleased to do so much for the Church in Scotland; but we

are very sorely pressed in our position, and we do feel causing this trouble the more, as the Queen in Council has been called upon so often to repress, resist Ecclesiasticism in the Province of Quebec, and now importuned by us to grant relief from the same spirit in the Province of Ontario, as in both Provinces the respective Local Governments are equally subservient to the clericalism of its dominant party, as these Bills show.

We seek relief from the afflictions we suffer under these Acts, for the following and other reasons:—

Firstly.—The Acts complained of were passed without any notice being served on Congregations or on Ministers, though so seriously affected by said Acts; nor was such, seemingly, demanded by the Legislature from the promoters of said Bills, but passed at their request, who, though office bearers in our church, formerly, were only so in matters of faith and doctrine, and had no power of a temporal nature over us or over the brethren, and they knew well that, without the secular power, no injury could be done to us in our bodies, in our estate, or amongst our people. We do not point out any of the deviations from rules of their own making, on the part of the Legislature of Ontario, although we might do so in this case, as the properties of order should be within the breasts of each, both by training as well as by nature: only we state that in less than an hour, these Acts in Toronto, which is very distant from our respective homes, passed.

Then all who had withdrawn thirty years ago, joined with other denominations, joined by some of our own people, rushed at the properties held by us as before the cry, "Moab to the spoils," and under color of said Acts we have suffered in our estates, as well as in our religious interests, and we claim that said Acts should be disallowed, and the spiritual power of authority or of Church Courts alone allowed to rule.

Secondly.—The Province of Ontario, as also the other Provinces, has an Act or Acts on Religious Worship, permitting any persons so minded to constitute themselves a religious denomination under any name they please, and when the numbers are so many as the Law states, they can then continue their existence, can hold property and have aknowledged rights under that name, and can carry on the religious corporation they so originate, whilst we are excluded from said liberties, although our numbers, even now, are far in excess of the limits the said Law ever contemplated or expressed, as a minimum number to be so acknowledged under the Religious Worship Acts of this Province; and we claim that the Colonial Legislature has no power to legislate us out of existence, which said Acts do, and so ought to be disallowed, or so altered as to have all left to the freedom of choice in continuing with the Church of Scotland, or withdrawing peacefully therefrom, and the more so, as one of the Sections of Chapter seventy-five (75) prevents our continued existence; and prepares the way to carry over all our properties without a sale or purchase, or payment; but it does not afford us the same privilege as against the larger body, making thus a regular net out of which there is no escape. So that the toleration Acts of the Empire are violated by said Acts, to our hurt, and we claim protection therefrom.

We might explain that, in party government in these Provinces, the more of all the ordinary safeguards of State that are violated to please a religious denomination, the more that party gains in control over such in a land so political as this, and this right is often thus trampled under foot.

Thirdly.—By an Act of the Imperial Parliament, passed in the year 1853, Ontario lands called Clergy Reserves, a former gift from the Crown of Great Britain for the "support of a Protestant clergy," were placed at the disposal of the Legislature of Upper and Lower Canada, subject to a reservation in favor of the Churches of England and Scotland, "to whom the faith of the Crown was pledged." Now these Churches had left with them manses or parsonages, glebes, Churches, churchyards, which were then in the peaceable possession of said churches, under the "faith of the Crown," as the emoluments were, that came from the Provincial Treasury, until the Act of 1853, withdrawing the same. Now, without being even

heard in the matter, the remaining property aforesaid is conveyed by the dictum of the Legislature over to another body, contrary to all precedents of former days, and a religious body, separate from us in name and doctrine and practice, are put into possession of these Churches and Heritages.

We claim that said Acts should be disallowed, until an Imperial Act were passed withdrawing the "faith of the Crown" from all heritages as have remained with this Church, and we feel quite satisfied to abide such legislation as Imperial justice will enact.

No part or portion of property legislated on was ever given over to us by the Province, but was a concession from the Crown of Great Britain increased by gifts from the living and the dead, so that a Church, identical in name and doctrine with the Church of Scotland, should continue, and be perpetuated in Her Majesty's Provinces. Yet we are legislated out of our name and rights at the request of parties who did not own said properties, nor were givers thereto, and without such Acts we could not be molested in any way, as the Deeds were absolute and had a clause in them declaring that such lands "were inalienably connected with the Church of Scotland" in all time coming.

Fourthly.—All our Churches, repaired in whole or in part, have been assisted by the parent Church in Scotland, on application from parties here, voluntarily submitting themselves to the requirements of the Church, and that was placing upon the property a lien or hypotheca that said property was to remain "inalienably attached to the Church of Scotland in all times coming," and a certified copy of said Deed was deposited with the Department of the Church, called "Colonial Committee," having their rooms at No. 22 Queen street, Edinburgh; one of said copies will be forwarded to the "Colonial Office," London, in confirmation of the same; and no written notice of relief of said lien or hypotheca was produced from the Church of Scotland to permit the Legislature of Ontario to set aside said Deeds duly registered; nor were any of the Deeds of the Church here asked for, or looked at by the House, whilst for a few minutes the Clerk called out the Bills; nor have the lands so hypothecated a clause for redemption in equity, as said condition was to abide "in all time coming," so that the ordinary laws of trade and commerce are set aside by the Legislature, to benefit other friends at the expense of the property of the Church unrepresented here; all which is wholly contrary to British law, and to our rights as British subjects of the British Crown; seeing we are resolved to remain connected with one of the Churches of the Empire all our days, and we claim that said connection is not a crime cognizable by any Law passed as yet in these parts; and we claim that the said Acts should be disallowed, in as far as they affect the Presbyterian Church of Canada in connection with the Church of Scotland.

In the case of Queen's College, Kingston, Ontario, Chapter seventy-six (76), the Act first constituting said University was local, which Act was disallowed in order that the permanency of its connection and position would have every guarantee of continuance, as long as Colonial connection would exist; so a Royal charter was granted to said College, dated at Windsor, in the fifth year of Her Majesty, Queen Victoria; and thus Royal Letters Patent passed the *Great Seal*, dated 16th October, 1841, granting certain privileges to said College, and also perpetual connection with the Church of Scotland, yet said Royal Charter or Letters Patent have been set aside by the Legislature of Ontario, in Chapter seventy-six (76), in the thirty-eighth (38th) year of Her Majesty Queen Victoria, of said Acts passed that year, and the Royal Charter treated as no protection to the Church in its control over the institution.

One of the Banks doing business in this Dominion and Provinces, is also under a Royal Charter, terminable at a certain time, and, if now confiscated, a clear gain of over two million dollars could be made to the Dominion; and it has no better guarantee than we had, under Royal charter.

We, therefore, humbly pray enquiry may be made as to facts stated, and if found true in every respect, as we know they must, we do pray that the Acts complained of be disallowed, notwithstanding the ten (10) months that our Petition has lain in

the Department of State at Ottawa. And as the law of changes in Church properties begun here in the year 1855, extended itself to Ireland in the year 1870, so we feel sure that the principle now complained of, will be sure to meet some British Government in its application to Glebes, Churches, Church-yards, and other properties left with the disestablished Church of Ireland before very long. And we do pray that such a decision may be come at, as will reflect lustre on the spirit of order and justice, which has marked the past of the Government of Britain.

Without these Acts we do not fear any of the Courts of this Province to test our title before them, and our people are in all places prepared to pay all local obligations due against the properties, whether Municipal or Provincial, as the same may be imposed by law.

We have applied to His Excellency the Governor General of Canada to be good enough to forward, in order of business, this explanatory Petition, along with the original Petition, as received thereon, the 12th February, 1875, along with such other originals as have passed before him, and also the decision of Council there anent.

We have requested the Colonial Committee of the Church of Scotland to forward one of the duly certified Deeds from the bounds of this Presbytery, in their office, and we have also forwarded the papers received from Ottawa by us, to be humbly submitted to Your Honorable Council in due form, and your Petitioners, as in duty bound, shall ever pray.

Signed, in the name and by authority of, the Presbytery of Glengarry.

(Signed) THOMAS McPHERSON,
Moderator.

" NEIL BRODIE,
Minister, Lochiel, Ont.,
Presbytery Clerk.

At Lancaster, Ontario, this 24th day of February, 1876.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 29th February, 1876.

The undersigned, to whom has been forwarded the accompanying Memorial of the Presbytery of Glengarry to His Excellency, enclosing a so-called explanatory Statement from the same Presbytery, addressed to the Secretary of State for the Colonies, with an expression of His Excellency's wish, that the undersigned should peruse the same and make such observations as he thinks fit for the information of the Secretary of State for the Colonies, begs to report that the action with reference to the local Statutes referred to in these papers, is the action of the Queen's Privy Council for Canada, and that it appears to him that any observation to be made on the papers for the information of the Secretary of State, should be approved in Council.

The undersigned observes, that it is alleged by the Presbytery that that Body was not allowed to be heard, in explanation of its Petition to the Governor in Council.

This statement is, so far as the undersigned is aware, entirely unfounded. The undersigned is aware of no application on the part of the Presbytery to be heard. Had such an application been made, it would have been necessary for those responsible for the proper management of the matter, to have considered the propriety of granting a hearing, which, if granted, would probably involve the necessity of citing those who might be opposed to the prayer of the Petition and giving them a hearing.

The undersigned is not aware of any case in which these matters have been dealt with, after the fashion suggested in their Memorial by the Presbytery.

The undersigned observes that it is alleged that the time said to be lost was brought forward as the reason for refusing the Presbytery any redress in the premises.

This the undersigned is obliged to deny. The Law accords twelve months for the disposition of the question, whether a Provincial Statute shall be disallowed, or left to its operation.

Within that period it was necessary for the Government to act, if it should act at all, and this is all that was alleged by the Government in that connection.

Passing to the objections taken to the Statutes, the undersigned does not feel called upon to make any further observations, than those contained in his Report to Council upon the subject of the Petition and the Acts in question; but, with reference to the proposal of the Presbytery, that the Imperial Authorities should interfere, he would observe that by the British North America Act, the power of disallowance does not reside in the Imperial authorities, that it can be exercised only within twelve months, that that time has elapsed, and that there is consequently no power to interfere with the operation of the Acts in question, so far as they are within the powers of the Local Legislature, a question which can be raised in the Courts alone.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March,* 1876.

The Committee of the Privy Council have had before them the Report hereunto annexed, from the Honorable the Minister of Justice, on a Memorial from the Presbytery of Glengarry, praying that a former Petition presented by them to Your Excellency, praying that two certain Acts of the Legislature of the Province of Ontario passed in the 38th year of Her Majesty's reign, should not receive the Royal Assent, together with all papers connected with the subject, be forwarded by Your Excellency to Her Majesty's Secretary of State for the Colonies.

Cap. 75 and Cap. 76.

The Committee concur in the Report of the Minister of Justice.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

(Canada, No. 83.)

The Earl of Carnarvon to the Governor General.

DOWNING STREET, 14th April, 1876.

MY LORD,—I have received your Lordship's despatch, No. 70, of the 13th ultimo, forwarding a Memorial from the Presbytery of Glengarry, in the Province of Ontario, praying for the disallowance of certain Acts of the Legislature of that Province, affecting the various Presbyterian Churches in Canada.

I request that you will inform the Memorialists that the Acts of which they complain, being Acts of the Provincial Legislature, their confirmation or disallowance rests, not with the Imperial authorities, but with those of the Dominion of Canada, by whom they appear to have been confirmed after due consideration of the objections of the memorialists. The Acts in question appear, therefore, to be in full operation, and no appeal against them can now be brought, unless it should appear that any of their provisions were beyond the power of the Provincial Legislature to

pass. If the Petitioners should be of opinion that such is the case, it would be open to them to try the question in a Court of Law.

I have, &c.,

(Signed) CARNARVON.

The Governor General,
&c., &c., &c.

The Earl of Carnarvon to the Governor General.

Downing Street, 1st June, 1876.

My Lord,—I have the honor to transmit to you a copy of a letter from the Rev. John Moffat, Minister of the Scotch Church, Bayfield, Huron County, respecting the injury done to the Scotch Church by Legislation in Canada.

I have, &c.,

(Signed) CARNARVON.

The Governor General,
&c., &c., &c.

The Rev. John Moffat to the Earl of Carnarvon.

Scotch Church, Bayfield, Huron County, Canada West, 9th May, 1876.

My Lord,—A great wrong has been perpetrated upon Her Majesty's loyal subjects in Canada who belong to the Church of Scotland, in consequence of the passing of certain Acts by the Provincial Legislatures here, to strip that Church of her property, and to transfer it to a new and hostile sect, and thus destroy her completely, if possible. For a long time past we have had a tremendous struggle to preserve our rights—these were finally taken from us about a year ago, and great has been our suffering and persecution, since the obnoxious Acts came into force. The cause of the movement is evidently an insane desire with the party in power here (vulgarily called Grits) to obliterate British national feelings and institutions. A considerable number of our Ministers joined the movement, and with the view of first pulling down the loyal Church of Scotland, formed a sort of union with Canadian and other Presbyterians, hostile to our Church of Scotland. Against such union proceedings, we protested at every stage of them. Nevertheless the fatal Bills were rushed through the different Legislatures in defiance of every right, which transferred our property to a disloyal, rebellious sect! Thus was our loyal Church of Scotland robbed and plundered of all her property, under the deceptive name of union. Your Lordship will at once see the injustice of this, the law being universally laid down, that those seceding from any body, forfeit all right to its property. Those, therefore, who thought proper to leave us and join others, had no right whatever to carry with them our property.

All the property of the Scotch Church in Canada has been raised by the laudable exertions of her own Members in Scotland or in Canada, or granted partly by the British Government in recognition of her services in America, and to deprive her of such property, and transfer it to aliens, is a violation of every principle of right and justice. Every tie which connects us with the Mother Country should be maintained, and the Scotch Church here was a very powerful one. I have endeavored, in the accompanying pamphlet to point out *some* of our sufferings and hardships, for we are

now oppressed with Chancery and Law suits, of which we cannot tell the issue, and our last resort is to appeal, if possible, to the Privy Council in England, for redress.

Earnestly entreating Your Lordship to interest that august body in our present troubles and trials,

I have, &c.,

(Signed) JOHN MOFFAT,

Minister of the Scotch Church, Bayfield, Huron County, Canada West.

To the Right Honorable
The Earl of Carnarvon,
Colonial Secretary.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th November, 1875.

With reference to the five following private Acts passed in the year 1874, by the Legislature of the Province of Ontario, the undersigned has the honor to report as follows:—

Chapter 78, entitled: "An Act respecting the Methodist Church of Canada." By the 1st section the real or other property held in other Provinces by certain Church bodies belonging to those Provinces is, in effect, declared to have become vested along with property in Ontario of certain Church bodies of that Province, in a new Church body. As to this clause the undersigned refers to his Report upon Chapter 75 of the same Statutes, upon the reasoning of which it would appear to him that as to property outside of Ontario the clause is *ultra vires*, and inoperative; yet the undersigned does not advise that the Act should be disallowed.

Chapter 44, entitled: "An Act to enable the Corporation of the City of Kingston to close up a part of Union Street, with the Water Slip in front of the same, in the said City, and for other puposes."

This Act, besides making certain provisions within the competence of the Local Legislature, proposes to give power to close up a part of the public harbor of Kingston. It is true that all the powers given by the Act are expressed to be so far as the Legislature has jurisdiction in that behalf; but the undersigned is obliged to recommend that, unless the Act be amended, by eliminating the provisions to which he refers, it should be disallowed.

Chapter 67, entitled: "An Act to incorporate the Canada Fire and Marine Insurance Company."

The powers professed to be conferred by this Act appear to the undersigned too wide. It authorizes the Company to effect Policies of fire insurance with any persons or bodies corporate, and to make contracts of marine insurance with any persons, in respect to losses of vessels navigating any waters from or to any ports. It is not provided that the chief place of business shall be in the Province. Power is given to comply with the Laws of other Provinces or States wherein the Company may carry on business, and the word "Canada" introduced into the name is, of itself indicating of more than Provincial powers. On the 31st March, 1875, Chapter 82, of the Statutes of Nova Scotia for 1874, was disallowed upon grounds applicable to this Act. The undersigned recommends that unless the objectionable provisions are obviated by amendment, this Act should be disallowed.

Chapter 68, entitled: "An Act to incorporate the Industrial and Commercial "Life Assurance Company of Canada."

This Act is open to the objections suggested, with reference to Chapter 67, besides containing a provision with reference to the Insolvency of the Company.

The undersigned recommends that unless the objectionable provisions are obviated by amendment, this Act should be disallowed.

Chapter 66, entitled: "An Act to incorporate the Alliance Insurance Company."

By this Act, power is given to the Company to borrow money on security of its Debentures, to an amount not exceeding the amount of its paid-up capital stock. This provision seems open to serious objection, as a matter of policy; but having regard to the course which has been pursued in reference to other Acts, giving objectionable powers, the undersigned does not feel that he ought to recommend the disallowance of this Act on that ground. He may remark that by the 17th section of Chapter 67 and by the 23rd section of Chapter 68, powers of the same character, though not so extensive, are given to the Companies by these Acts incorporated.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd November*, 1875.

On a Report dated 16th November, 1875, from the Hon. the Minister of Justice, having reference to the following five private Acts, passed in the year 1874, by the Legislature of Ontario, namely:—

Chapter 78, intituled: "An Act respecting the Methodist Church of Canada."

The Minister states that by the 1st section, the real or other property held in other Provinces by certain Church bodies belonging to those Provinces, is in effect declared to have become vested, along with property in Ontario of certain Church bodies of that Province, in a new Church body.

That as to this clause he refers to his Report upon Chapter 75 of the same Statutes, upon the reasoning of which it would appear to him that, as to property outside of Ontario, the clause is *ultra vires* and inoperative, yet that he does not advise that the Act should be disallowed.

Chapter 44, intituled: "An Act to enable the Corporation of the City of Kingston to close up a part of Union Street, with the Water Slip in front of the same, in the said City, and for other purposes."

That this Act besides making certain provisions within the competence of the Local Legislature, professes to give power to close up a part of the public harbor of Kingston. That it is true that all the powers given by the Act, are expressed to be given, only so far as the Legislature has jurisdiction in that behalf; but he is obliged to recommend that unless the Act be amended by eliminating the provisions to which he refers, it should be disallowed.

Chapter 67, intituled: "An Act to incorporate the Canada Fire and Marine Insurance Company."

The Minister observes that the powers professed to be conferred by this Act appears to him too wide—that it authorizes the Company to effect Policies of Fire Insurance with any persons or bodies corporate, and to make contracts of Marine Insurance with any persons, in respect to loss of vessels navigating any waters from or to any ports; that it is not provided that the chief place of business shall be in the Province. Power is given to comply with the Laws of other Provinces or States wherein the Company may carry on business, and the word "Canada," introduced into the name is, of itself, indicative of more than Provincial objects. That on the 31st March, 1875, Chapter 82, of the Statutes of Nova Scotia for 1874, was disallowed upon grounds applicable to this Act. The Minister recommends that unless the objections are obviated by amendment, this Act should be disallowed.

Chapter 68, intituled: "An Act to incorporate the Industrial and Commercial Life Assurance Company of Canada."

This Act, the Minister submits, is open to the objections suggested with reference to Chapter 67, besides containing an objectionable provision with reference to the

insolvency of the company, and he recommends that unless the objections are obviated by amendment, this Act should be disallowed.

Chapter 66, intituled: "An Act to incorporate the Alliance Insurance Company."

The Minister states that, by this Act, power is given to the Company to borrow money on security of its debentures, to an amount not exceeding the amount of its paid-up capital stock.

That this provision seems open to serious objection as a matter of policy; but having regard to the course which has been pursued in reference to other Acts, giving objectionable power, he does not feel that he ought to recommend the disallowance of this Act on that ground. He remarks that, by that 17th section of Chapter 67, and by the 23rd section of Chapter 68, powers of the same character, though not so extensive, are given to the Companies by these Acts incorporated.

The Committee concur in the Report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th November, 1875.

With reference to the undermentioned four public Acts passed by the Legislature of Ontario in the year 1874, the undersigned begs leave to report:—

Chapter 4, intituled: "An Act respecting the operation of the Statutes of Ontario."

Section 6.—The language is rather vague and is open to the construction that it applies to the Statutes of the Dominion and Statutes of former Legislatures upon subjects within the Legislative competence of the Dominion.

Section 12 enacts that several Statutes should be repealed so far as they relate to Ontario—some of these Statutes relating in part to criminal law and procedure are still in force, and the language with reference to their repeal is objectionably wide. It would be better to limit it to so much of the Acts, as affect matters within the Legislative authority of Ontario.

Chapter 12, intituled: "An Act to amend the Act respecting Division Courts."

The provision in this Act, making it the duty of a County Court Judge to hold a Division Court in any County in the Province, on being ordered to do so by the Lieutenant-Governor in Council, &c., appears to be objectionable as assuming, though to a limited extent, the power of appointment vested in the Government of Canada. It would not be objectionable to impose the duty upon requirements by Order of the Governor General in Council, made upon the request of Lieutenant-Governor.

Chapter 19, intituled: "An Act respecting Apprentices and Minors."

Sections 17 and 18 appear to trench upon the criminal law, most, if not all of the Acts to be dealt with by a Magistrate, being criminal.

Chapter 28, intituled: "An Act to provide for voting by ballot at Municipal Elections."

Section 30 provides against the forgery, counterfeiting or fraudulently altering, defacing or destroying ballot papers, &c., and imposes a punishment for any of these offences. This section would appear to come within the objection taken by the predecessor of the undersigned in his Report of the 2nd January, 1875, with reference to the Act of Prince Edward Island respecting Controverted Elections.

The undersigned recommends that the attention of the Government of Ontario be called to the Acts mentioned in this Report, in order to their considering the pro-

priety of proposing amendments before the period arrives for determining as to their disallowance.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd November,* 1875.

The Committee have had under consideration the Report dated 16th November, 1875, hereunto annexed, from the Honorable the Minister of Justice, having reference to the undermentioned four public Acts passed by the Legislature of Ontario in the year 1874, viz. :

Chapter 4, intituled : "An Act respecting the operation of the Statutes of Ontario."

Chapter 12, intituled : "An Act to amend the Act respecting Division Courts."

Chapter 19, intituled : "An Act respecting Apprentices and Minors."

Chapter 28, intituled : "An Act to provide for voting by ballot at Municipal Elections."

And they concur in the recommendation expressed in said Report, that the attention of the Government of Ontario be called to the said Acts, in order to their considering the propriety of proposing amendments, before the period arrives for determining as to their disallowance.

Certified.

(Signed) W. A. HIMSWORTH.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd November, 1875.

Upon the Acts passed by the Legislature of the Province of Ontario at its Session held in the 38th year of Her Majesty's reign, being the fourth Session of the Second Parliament of said Province, the undersigned has the honor to report that the right of disallowance ought not to be exercised in respect of the following Acts, and he therefore recommends that they be left to their operation :—

Cap. 1.—An Act for granting to Her Majesty certain sums of money to defray the expenses of the Civil Government, for the year one thousand eight hundred and seventy-five, and of Legislation and other services, for the year one thousand eight hundred and seventy-four.

Cap. 2.—An Act to readjust the representation in the Legislative Assembly.

Cap. 3.—An Act to further amend the Laws affecting Election of Members of the Legislative Assembly, and the trial of such Elections.

Cap. 5.—An Act respecting the Boundary between the Provinces of Ontario and Quebec.

Cap. 6.—An Act respecting the Northerly and Westerly Boundaries of the Province of Ontario.

Cap. 7.—An Act respecting the Judicial Officers to whom Estate Bills may be referred.

Cap. 8.—An Act respecting Marriages, and Licenses and Certificates to marry.

Cap. 9.—An Act respecting Terms in the Court's of Queen's Bench and Common Pleas.

Cap. 10.—An Act to amend section thirteen of the "Administration of Justice Act, 1874."

Cap. 13.—An Act to make further provisions for Courts in unorganized Districts, and respecting Municipalities therein.

Cap. 14.—An Act to amend the Upper Canada Jurors' Act.

Cap. 15.—An Act respecting Railway Arbitrations.

Cap. 16.—An Act for the further Limitation of Actions and Suits relating to Real Property.

Cap. 17.—An Act to amend the Registration of Titles' (Ontario) Act.

Cap. 18.—An Act respecting Personal Estates of small value.

Cap. 20.—An Act to amend "The Mechanics' Lien Act of 1873."

Cap. 21.—An Act to amend the Act respecting Benevolent, Provident and other Societies.

Cap. 22.—An Act respecting Official Securities, given for the protection of private persons.

Cap. 23.—An Act to make further provision respecting Letters Patent to Joint Stock Companies.

Cap. 24.—An Act respecting the Central Prison.

Cap. 25.—An Act to amend the Ontario Drainage Act of 1873.

Cap. 26.—An Act respecting Ditching Watercourses.

Cap. 27.—An Act to amend the Act respecting the Improvement of Water Privileges.

Cap. 29.—An Act to amend the Act respecting the Municipal Loan Fund debts and certain payments to Municipalities.

Cap. 30.—An Act to continue and extend the Act to provide for the better government of that part of Ontario situated in the vicinity of the Falls of Niagara.

Cap. 31.—An Act to separate the Town of Orangeville and certain Townships in the Counties of Wellington, Grey and Simcoe, from the said Counties, and to erect the same into the County of Dufferin.

Cap. 32.—An Act to incorporate the Village of Ailsa Craig, in the County of Middlesex.

Cap. 33.—An Act to incorporate the Town of Palmerston, and to define the limits thereof.

Cap. 34.—An Act to incorporate the Town of Thorold.

Cap. 35.—An Act relating to the Incorporation of the Village of Wroxeter.

Cap. 36.—An Act to give effect at the ensuing election in January, one thousand eight hundred and seventy-five, to the Proclamation dated seventh November, one thousand eight hundred and seventy-four, erecting the Village of Listowel into a Town.

Cap. 37.—An Act to give effect at the ensuing Election in January, one thousand eight hundred and seventy-five, to the Proclamation dated twenty-first November, one thousand eight hundred seventy-four, erecting the Village of Clinton into a Town.

Cap. 38.—An Act to enable the Municipality of the Township of Madoc, and the Municipality of the Township of Tudor, Wallaston, Limerick and Cashel, respectively, to exempt from taxation certain property employed and used in connection with the development of the Mineral resources within the said Municipalities.

Cap. 39.—An Act to authorize the Corporation of the City of Ottawa to mortgage the Wellington Ward Market property and other property therein mentioned, for a sufficient sum to erect suitable Market Building thereon.

Cap. 40.—An Act to amend the Act consolidating the debt of the Town of Peterborough, and to make further and better provisions for the relief of the supporters of the Roman Catholic Separate School in the said Town of Peterborough, in the matter of the Union School indebtedness of the said Town.

Cap. 41.—An Act to legalize and confirm the survey of the line between the fourth and fifth Concessions of the Township of Eldon in the County of Victoria, between lots numbers thirteen and twenty-four, as made by C. G. Hanning, Esquire, P.L.S.

Cap. 42.—An Act respecting allowances for Roads on the blank alternate Concession lines in the Townships of Westmeath and Ross, in the County of Renfrew.

Cap. 43.—An Act to alter the Town line dividing the Townships of Tilbury and East Romney, in the County of Kent.

Cap. 45.—An Act respecting the Belleville and North Hastings Railway Company.

Cap. 46.—An Act to amend the Act intituled: "An Act to incorporate the Erie and Hudson Railway Company, and to extend the powers upon the said Company."

Cap. 47.—An Act to authorize the Cobourg, Peterborough and Marmora Railways and Mining Company to issue preferential Debentures and to amend the Acts relating to the said Company, and for other purposes.

Cap. 48.—An Act further to amend the Act incorporating the Hamilton and North-Western Railway Company.

Cap. 49.—An Act to incorporate the Huron and Quebec Railway Company, and to enable the Municipality of the Town of Peterborough to grant aid by way of Bonus to the said Company.

Cap. 50.—An Act to incorporate the Huron and Ontario Railway.

Cap. 51.—An Act to incorporate the L'Orignal and Caledonia Railway Company.

Cap. 52.—An Act to amend the Act incorporating the Lake Simcoe Railway Company.

Cap. 53.—An Act to amend the Act incorporating the North Simcoe Railway Company.

Cap. 54.—An Act to incorporate the Port Stanley, Strathroy and Port Franks Railway Company.

Cap. 55.—An Act to amend the Act amending and consolidating the Act incorporating the Stratford and Huron Railway Company, and the Act reviving and amending the same.

Cap. 56.—An Act to amend the several Acts relating to the Toronto, Grey and Bruce Railway Company.

Cap. 57.—An Act to amend the Acts relating to the Toronto and Nipissing Railway Company.

Cap. 58.—An Act to amend the Act incorporating the Trent Valley Railway Company.

Cap. 59.—An Act to amend the Acts respecting the Wellington, Grey and Bruce Railway Company.

Cap. 60.—An Act to incorporate the Toronto High Park and Mimico Tramway Company.

Cap. 61.—An Act to amend the Acts relating to the Victoria Railway Company.

Cap. 62.—An Act to incorporate the Central Station and Warehousing Company of Toronto.

Cap. 63.—An Act to incorporate the St. Catharines Street Railway Company.

Cap. 64.—An Act respecting the Huron and Ontario Ship Canal Company.

Cap. 65.—An Act to amend the Laws relating to Fire Insurances.

Cap. 68.—An Act to incorporate the Industrial and Commercial Life Assurance Company of Canada.

Cap 69.—An Act to amend the Act to incorporate "The Gatling Gold and Silver Mining Company."

Cap. 70.—An Act to confirm, amend and extend the Incorporation of The Hawkeye Gold and Silver Mining Company.

Cap. 71.—An Act to enable the Brantford Gas Company to issue preferential Stock, and for other purposes.

Cap. 72.—An Act to incorporate the Hamilton Exchange.

Cap. 73.—An Act to define and extend the powers of The Canada Landed Credit Company.

Cap. 74.—An Act to incorporate the Synod of the Diocese of Huron, and to unite the Church Society of the Diocese of Huron therewith.

Cap. 76.—An Act respecting Queen's College at Kingston.

Cap. 77.—An Act to confirm the appointment of Trustees in connection with the Presbyterian Church of Canada, in the City of London, and to make valid certain sales of property made by the said Trustees.

Cap. 79.—An Act to consolidate and amend the Acts incorporating Victoria College at Cobourg.

Cap. 80.—An Act to vest certain lands in the Village of Trenton in the Incorporated Synod of the Diocese of Ontario.

Cap. 81.—An Act to amend an Act passed in the twenty-second year of the reign of Her Majesty Queen Victoria, and chaptered one hundred and twenty-seven, respecting the first Parsonage or Rectory within the Township of Drummond.

Cap. 82.—An Act to amend an Act relating to Trinity Church, Cornwall.

Cap. 83.—An Act to enable the Incumbent and Church Wardens of St. John's Church, Iroquois, to mortgage certain Lands.

Cap. 84.—An Act relating to St. James' Church, Orillia, and certain Land belonging thereto.

Cap. 85.—An Act relating to Christ's Church, Hamilton.

Cap. 86.—An Act to amend the Act passed by the Legislature of Ontario, in the thirty-first year of Her Majesty's reign, and intituled: "An Act to incorporate the Temporal Committee of St. Andrew's Church, in the City of Ottawa, in connection with the Church of Scotland, and to vest certain property in the said Temporal Committee.

Cap. 87.—An Act further to amend an Act to incorporate the County of Carleton General Protestant Hospital, and to grant certain powers to the Directors thereof.

Cap. 88.—An Act further to amend the Act to incorporate the Ottawa Ladies' College.

Cap. 89.—An Act to vest certain lands in the Trustees of the Curtis Cemetery in St. Thomas.

Cap. 90.—An Act to amend the Act incorporating the Trustees of the Toronto General Burying Grounds, and to enable said Corporation to remove the remains of the dead now interred in the Potters Field, and to sell the same after the removal of such remains.

Cap. 91.—An Act to vest in and enable Caira Robins Wilkes, the wife of George Samuel Wilkes, to convey and dispose of certain real and personal estate and property devised to her by her late father.

Cap. 92.—An Act to authorize the Courts of Queen's Bench, Common Pleas and Chancery for Ontario, to admit Francis Elkington to practise as an Attorney and Solicitor therein.

Cap. 93.—An Act to authorize the Law Society of Ontario to admit William George Murdoch as a Barrister-at-Law.

Cap. 94.—An Act to enable the Law Society of Ontario to admit Edward Stonehouse as a Barrister-at-Law.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th November*, 1875.

On a Report dated 22nd November, 1875, hereunto annexed, from the Honorable the Minister of Justice, upon the Acts passed by the Legislature of the Province of Ontario, at its Session held in the 38th year of Her Majesty's reign, being the Fourth Session of the Second Parliament of said Province, stating that the right of disallowance ought not to be exercised in respect of the Acts mentioned in said Report, and recommending that they be left to their operation.

The Committee concur in the foregoing recommendation, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd December, 1875.

With reference to the (2) Orders in Council, dated 23rd November last, passed upon the (2) Reports of the undersigned, dated 16th November, upon the following three private and four public Acts, passed at the last Session of the Legislature of Ontario:

Private Acts.

Chapter 44, intituled: "An Act to enable the Corporation of the City of Kingston to close up a part of Union street, with the Water Slip in front of the same, in the said City, and for other purposes."

Chapter 67.—"An Act to incorporate the Canada Fire and Marine Insurance Company."

Chapter 68.—"An Act to incorporate the Industrial and Commercial Life Assurance Company of Canada."

Public Acts.

Chapter 4, intituled: "An Act respecting the operation of the Statutes of Ontario."

Chapter 12, intituled: "An Act to amend the Act respecting Division Courts."

Chapter 19, intituled: "An Act respecting Apprentices and Minors."

Chapter 28, intituled: "An Act to provide for voting by ballot at Municipal Elections."

The undersigned has the honor to report, that an Act amending the said Acts in several particulars, in respect of which objection was taken thereto in the said Reports, has been this day assented to in the Legislature of Ontario, with a view to obviate the disallowance of the said Acts.

The undersigned, without expressing any opinion as to whether all the amendments were necessary, considers that they are such as to render it fit that the several Acts referred to should be left to their operation, having regard, as to Chapter 67, to the observation that he has been informed by the Attorney-General of Ontario that he will be prepared to promote further Legislation with a view to substitute some other word for the word "Canada" in the title of the Company incorporated by that Act, this objection not having been remedied by the amending Act.

The undersigned, therefore, recommends that the said Acts be left to their operation, and that the Government of Ontario be requested to promote the Legislation last indicated.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th December,* 1875.

On a Report dated 23rd December, 1875, from the Honorable the Minister of Justice, with reference to the (2) Orders in Council, dated 23rd November last, passed upon his (2) Reports, dated the 16th November, upon three private and four public Acts, passed at the last Session of the Legislature of Ontario;

The Committee concur in the Report of the Minister of Justice, and accordingly recommend that the said Acts be left to their operation; and that the Government of Ontario be requested to promote the Legislation last indicated in the said Report.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

ONTARIO, 39TH VICTORIA, 1875-76.

1ST SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th October, 1876.

With reference to the Statutes of the Legislature of Ontario, passed in the Session thereof, held in the year 1875 6 (39th Victoria), the undersigned begs to report as follows :—

Chapters 1 to 7, inclusive; 10 to 22, inclusive; 24 to 31, inclusive; 33 to 76, inclusive; 78, 80 to 91, inclusive; and 97 to 114, inclusive, do not appear to call for special observation, or for the exercise of the power of disallowance.

Chapter 8.—"An Act respecting certain administrative matters herein mentioned."

The first section of this Act is as follows :—

"The Lieutenant-Governor may, with the advice and consent of the Executive Council, from time to time, appoint any person or persons, jointly and severally, to be his Deputy or Deputies, within any part or parts of the Province, in respect of matters which are within the Legislative authority of the Province in this behalf; and such Deputy or Deputies may exercise, during the pleasure of the Lieutenant-Governor, such powers, authorities and functions of the Lieutenant-Governor as, being within the Legislative authority of this Province, the Lieutenant-Governor deems necessary or expedient to assign to such Deputy or Deputies; but the appointment of such Deputy or Deputies shall not affect the exercise by the Lieutenant-Governor of any power, authority or function."

The sections of the British North America Act bearing upon this subject appear to be as follows :—

Section 58.—"For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor General in Council, by Instrument, under the Great Seal of Canada."

Section 59.—"A Lieutenant-Governor shall hold office during the pleasure of the Governor General; but any Lieutenant-Governor appointed after the commencement of the First Session of the Parliament of Canada shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter, if the Parliament is then sitting, and if not, then within one week after the commencement of the next Session of Parliament."

Section 62.—"The provisions of this Act, referring to the Lieutenant-Governor, extend and apply to the Lieutenant-Governor, for the time being, of each Province, or other Chief Executive Officer or Administrator, for the time being, carrying on the government of the Province, by whatever title he is designated."

Section 65 —"All powers, authorities and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada or Canada, were or are, before or at the Union, vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as

the same are capable of being exercised after the Union, in relation to the Governments of Ontario and Quebec respectively, be vested in, and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice, or with the advice and consent of, or in conjunction with the respective Executive Councils, or any Members thereof, or by the Lieutenant-Governor individually, as the case requires, subject, nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec."

Section 67.—"The Governor General in Council may, from time to time, appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness, or other inability."

In connection with section 65 of the "British North America Act," it may be convenient to refer to section 40 of the Union Act, 3 and 4 Vic., Chap. 35. This section preserves the prerogative to Her Majesty, notwithstanding anything contained in the Act to authorize a Governor General to appoint Deputies; but the Governor of Canada does not appear to have been invested under the Act with the power to appoint a Deputy. This power might, however, be communicated to him by the direct exercise of the prerogative in each case. The 92nd section of the British North America Act gives power to the Provincial Legislatures to make laws in relation to the amendment, from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.

Having regard to this limitation, and having regard also to the 67th section, which authorizes the Governor in Council to appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness or other inability, and looking to the power expressly conferred upon Her Majesty by the 14th section, to authorize the Governor General, from time to time, to appoint his own Deputies, and, contrasting this extension with the more limited provisions made by the 67th section, for the case of Lieutenant-Governors, the undersigned takes it to be clear, that it would not be within the competency of the Provincial Legislature to empower the Lieutenant-Governor in Council to appoint a Deputy for the execution of any of those offices or functions, which properly pertain to him in his capacity as Lieutenant-Governor.

The clause in question purports, however, to restrict the action of the Deputy to matters which are within the Legislative authority of the Province in that behalf; but that restriction leaves entirely unsettled the question how far the Deputy may act.

If the Local Legislature invests the person who, from time to time, fills the office of Lieutenant-Governor with certain powers which are not properly or necessarily attributes of his office, and with which it was competent to the Legislature to invest any other person, it is obvious that the Legislature which might divest the Lieutenant-Governor of these powers altogether, might give him the right to exercise them by Deputy; and it is highly probable that there are transactions of a description, the performance of which, by Deputy, it might be convenient to authorize; but it appears to the undersigned that it would be advisable so to alter the phraseology of the clause, as to render clearer the extent of the power, by excepting from its operation all powers and functions which are attributes of the office of Lieutenant-Governor, and limiting its operation to such powers and functions as may, from time to time, be lawfully conferred upon the person filling the office of Lieutenant-Governor by the Provincial Legislature.

The undersigned feels that there is much difficulty in framing a clause, and he recommends that the attention of the Lieutenant-Governor be called to these observations, with a view to their consideration by his Government.

Chapter 9.—"An Act respecting the Legislative Assembly."

This Act contains various clauses conferring privileges upon the Assembly and its Members.

The exact range of the powers of Local Legislatures in this particular has been the subject of discussion in more than one case.

Besides other clauses open to question, the 11th section provides that the Assembly shall have all the rights and privileges of a Court of Record, for the purpose of summarily enquiring into and punishing, as breaches of privilege, or as contempt of Court (without prejudice to the liability of the offenders to prosecution and punishment, criminally or otherwise, according to law, independently of the Act), several acts, matters and things. Amongst them are assaults on Members of the Assembly, not merely during the Session, but also for twenty days before and after the same; giving false evidence before the Assembly or a Committee thereof; presenting to the Assembly forged or falsified documents, with an intent to deceive; forging, falsifying or unlawfully altering papers, and certain other matters, which appear to be clearly within the criminal law. The section declares that the Assembly possess the power and jurisdiction to provide by Statute, as may be necessary or expedient, for enquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution the punishment thereof, provided by the Act.

The 12th section provides that any person guilty, shall be liable, in addition to any other penalty or punishment to which he is by law subject, to imprisonment for such time during the Session of the Legislative Assembly then being held, as may be determined by the Legislative Assembly.

The 13th section provides, that if any person is declared to be guilty of contempt for any of the acts, matters and things in section 11 set forth, is directed to be taken into custody or to be imprisoned, the Speaker shall issue his warrant to the Sergeant-at-Arms attending the House, or to the Keeper or Governor of the common gaol in the County of York, to take such person into custody, and to keep and detain him in custody in accordance with the order of the Assembly.

The 14th section declares, that the determination of the Assembly upon any proceeding under the Act, within the authority of the Province, shall be final and conclusive.

It appears to the undersigned that several of these provisions are open to very serious question, as being *ultra vires* of a Local Legislature, but almost all of them are contained in an Act of the Legislature of Quebec upon the same subject, which was left to its operation.

There are, indeed, some new provisions, but it would not be advisable, upon the principle upon which the Quebec Act was allowed, to advise the disallowance of this Act, by reason of the insertion of these provisions, and the undersigned feels bound to recommend that, following the precedent referred to, the Act should be left to its operation, it being quite possible for those who may object to its constitutionality to raise their objections in the Courts.

Chapter 14.—" An Act respecting County Court Judges."

The main provisions of this Act appear, by reason of the arrangements for the meeting and action of the Judges concerned, not to be open to the objections taken to Legislation of this character, which has occured in other Provinces, and the ninth section, which imposes upon a County Court Judge the duty, without arrangement made between the Judges, of holding Courts elsewhere than in his own County, is conditional on the order of the Governor General in Council, and is, in this view, unobjectionable.

The undersigned recommends that the Act, the provisions of which appear to be highly useful, should be left to its operation.

Chapter 23.—" An Act respecting Insurance Companies."

The undersigned proposes to defer for the present his Report upon this Act.

Chapter 24.—" An Act to secure uniform conditions in Policies of Fire Insurance."

Some question has been made as to the competency of the Local Legislature to pass this law, more particularly with regard to contracts made out of the Province,

but the undersigned recommends that the Act should be left to its operation, the question being conveniently susceptible of determination in the Courts.

Chapter 26.—"An Act to amend the Law respecting the sale of fermented or spirituous liquors."

Some of the provisions of this Act raise a question as to Licenses which is *sub judice;* but, as in other similar cases, the undersigned recommends that the Act should be left to its operation.

Chapter 32.—"An Act to make further provision respecting Permanent Building Societies."

This Act deals with the general management of permanent building societies in the spirit of legislation, which recently took place on the subject in the Canadian Parliament.

Having regard to the doubts which exist, as to which Legislature is competent to deal with this question, the undersigned cannot recommend that this Act should be disallowed.

Chapter 77.—"An Act to amend the Acts relating to the London, Huron & Bruce Railway Company."

This Act provides (section 2) that it should be lawful for the London, Huron & Bruce Railway Company and the Great Western Railway Company to unite together as one Company, or for one of the Companies to purchase and acquire the property and rights of the other.

The 3rd section provides that it should be lawful for the Directors of each of the Companies to agree with those of the other, that the Companies should be united, and that one Company should purchase the property, &c., and take upon itself the liabilities, &c., of the united Company.

The 4th section provides that when such an agreement shall have been made, the Directors of each Company shall call a special general meeting of the Shareholders of the Company for the purpose of considering it, and that it may be ratified.

The 5th section provides, that, from the time when any such ratified agreement shall take effect, the Company shall become one Company by the Corporate name assigned in the Agreement, and it provides that certain enactments in the Act to incorporate the London, Huron & Bruce Railway Company shall extend to any portion of railway which the new Company shall use for the purpose of connecting the southern terminus of the London, Huron & Bruce Railway with the City of London.

The 6th section provides that after such ratified agreement takes effect the railway property shall become vested in the Company purchasing the same, and such last mentioned company shall be responsible for all the liabilities of the Company whose railway property and rights shall have been transferred to them.

The 7th section provides for the capital of the union Company, and gives power to the purchasing Company to increase its capital, by loan, or the issue of debentures bearing any interest not exceeding seven per cent.

The 8th section continues the privileges, powers, rights and franchises proposed by either Company, provided that in the case of other provisions in the Charters of the two Companies the Agreement between the two Companies shall define which shall continue to, and be possessed, by the united or purchasing Company.

All these sections, in so far as they purport to confer rights upon the Great Western Railway Company, a Corporation under the legislative control of the Parliament of Canada, appear to the undersigned to be *ultra vires.* The powers required in order to make the Great Western Railway Company to act in the matter provided for by the Statute must be derived from the Parliament of Canada, and it would seem proper, in this connection, to point to the condition which is properly attached to the 14th clause, the language of which is that the Great Western Railway Company, "if so lawfully empowered," may hold shares, &c.

The undersigned recommends that the attention of the Lieutenant-Governor be called to this Act, with a view to its amendment before the expiration of the time within which it can be disallowed.

Chapter 79.—"An Act to incorporate the Niagara Falls and Lake Erie Railway Company."

The 33rd Section enacts as follows:—

"It shall be lawful for the said Company to enter into any agreement with any other Railway Company in the Province of Ontario for leasing the said railroad or any part thereof, or for the use thereof at any time or times, or for any period to such other Company, or for the leasing and hiring any locomotives, tenders or movable property, or for the leasing by the said Company of any such other railway Company's roadway, or any part thereof, or for the use thereof at any time or times, or for any period to the said Company, or for the leasing or hiring any locomotive, tenders or other movable property of such other Railway Company as they may deem expedient, and, generally, to make any agreement or agreements with any such other Company, touching the use by one or the other, or by both Companies, of the railway or movable property of either or both, or any part thereof, or touching any service to be rendered by the one Company to the other, and the compensation therefor; or such other Railway Company as well as any other corporation may agree upon any terms as they may mutually consent to, for the loan of its credit to, or may subscribe to or become the owner of the stock of the Railway Company hereby created in like manner, and with like rights as individuals, but, in so far only as the powers hereby conferred may be construed to have reference to any act, deed, matter or thing to be done, executed, fulfilled or performed within the limits of the Province of Ontario to the other, and the compensation therefor, and any such agreement shall be valid and binding, and shall be enforced by Courts of Law according to the terms and tenor thereof, and any company or individual accepting or executing such lease, shall be, and is empowered to exercise all the rights and privileges in the Charter conferred: Provided, however, that any lease or agreement authorized by this section shall be subject to the approval of a majority of the Shareholders obtained at a special general meeting convened, according to the by-laws of the Company, for considering the same."

The 34th Section is as follows:—"The said Company shall have power, and it shall be lawful for them to enter into arrangements with any other Railway Company for the utilizing of the whole or any part of such Railway Company's roadway lying between the aforesaid points, as the said Company may see fit, and such part so utilized shall be deemed, for the time, to be a portion of the railway so to be constructed as aforesaid, but such utilization shall not prevent said Company from carrying out their original design of building an entire independent roadway."

These sections purport to authorize action by other Railway Companies, not limiting them to railways under the authority of the Provincial Legislature, and with reference to these the undersigned would refer to his remarks upon Chapter 77.

Chapter 92.—"An Act to incorporate the Home Fire Insurance Company."

The 19th section provides that the Lieutenant-Governor in Council may appoint qualified persons to examine into the affairs of the Company, and to cause their books to be opened for the inspection of the person or persons so appointed, and otherwise to facilitate such examinations, and to have power to examine such officers and agents under oath, and when it shall appear that the assets and financial position of the Company are such as not to justify the continuance in business of the Company, the Attorney-General may apply in a summary manner, on motion to one of the superior Courts of Law or Equity, for an order requiring the said Company to show cause why the business of the Company should not be closed, and in case it shall appear to the satisfaction of the Court, upon hearing the allegations and proofs of the respective parties, that the assets and funds of the Company are not sufficient, or that the interests of the public so require, the said Court shall decree a dissolution of the said Company's affairs, and may appoint a Receiver, and take possession of, collect and get in the assets and effects of the Company, and otherwise to wind up the affairs thereof.

The 20th section gives powers to the Receiver, and the 21st section to the Court.

These provisions seem to trench on the law of Insolvency; and the undersigned recommends that the attention of the Lieutenant-Governor be called to this objection,

with a view to the amendment of the Act before the expiration of the time within which it can be disallowed.

Chapter 93.—"An Act to incorporate the Union Fire Insurance Company."

This Act in no wise limits the Fire Insurance business to be done by the Company; a limitation, though hardly satisfactory, is made in the preceding Act. The undersigned suggests that it would be proper to amend this Act by such a limitation of the range of business as may bring the Company within the powers of the Local Legislature.

The 16th, 17th and 18th sections contain provisions with reference to the winding up of the Company similar to those contained in Chapter 92, and with reference to them the undersigned repeats the recommendation already made as to that Act.

Chapter 94.—"An Act to confirm a By-law of the Canada Permanent Building and Saving Society, changing its name to the Canada Permanent Loan and Savings Company, and for other purposes therein mentioned."

Chapter 95.—"An Act to change the name of the Huron and Erie Savings and Loan Society to that of the Huron and Erie Loan and Savings Company."

Chapter 96.—"An Act to confirm a By-law changing the name of the Western Canada Permanent Building and Savings Society to that of the Western Canada Loan and Savings Company."

Having regard to the doubt already referred to, on the subject of the jurisdiction as to Building Societies, the undersigned cannot recommend the disallowance of these Acts.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee of Council have had under consideration the Report hereunto annexed, dated 13th October, 1876, from the Honorable the Minister of Justice, having reference to the Statutes of the Legislature of the Province of Ontario, passed in the Session thereof held in the year 1875-76 (39 Vic.), and they concur in the recommendations and suggestions contained in said Report, and submit the same for approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd March, 1877.

Upon certain Statutes of the Legislature of Ontario passed in the Session thereof held in the year 1875-76, 39th Victoria, and reported upon by me on the 13th October, 1876, I have to report further, that with reference to the objections raised to Chapters 77, 79, 92 and 93 of these Statutes, provision has been made, as appears by the letter of the Provincial Secretary of Ontario to the Secretary of State, of the 20th March, instant, so far obviating the objections, that it is fit that these Statutes should be left to their operation, and I recommend accordingly.

Upon Cap. 23 of same Statutes, intituled: "An Act respecting Insurance Companies," on which I have not as yet reported, I beg to report that this Act seems

open to the objection which was taken to the Acts above mentioned incorporating Insurance Companies, but that as appears by the Despatch already referred to, this objection has been so far obviated that it is fit that the Act should be left to its operation, and I recommend accordingly.

EDWARD BLAKE,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th March,* 1877.

On a Memorandum, dated 23rd March, 1877, from the Honorable the Minister of Justice, stating in reference to certain Statutes of the Legislature of Ontario, passed in the Session thereof, held in the year 1875-6, 39th Victoria, and reported upon by him on the 13th October, 1876, that he has to report further, that with reference to the objections raised to Chapters 77, 79, 92 and 93, of these Statutes, provision has been made, as appears by the letter of the Provincial Secretary of Ontario to the Secretary of State, of the 20th March instant, so far obviating the objection, that it is fit that these Statutes should be left to their operation, and he recommends accordingly.

That with reference to Chapter 23, of the same Statutes, intituled: "An Act respecting Insurance Companies," on which he has as yet not reported, he now reports that this Act seems open to the objection which was taken to the Acts above mentioned, incorporating Insurance Companies; but that, as appears by the Despatch already referred to, this objection has been so far obviated, that it is fit that the Act should be left to its operation, and he recommends accordingly.

The Committee submit the foregoing recommendation for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

ONTARIO, 40TH VICTORIA, 1877.

2ND SESSION—3RD PALIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd October, 1877.

I beg to report upon the Acts passed by the Legislature of the Province of Ontario, in the 40th year of Her Majesty's reign, being the year 1877, received by the Secretary of State on the 24th day of March, 1877, as follows:—

Cap. 1.—"An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year 1877, and to provide for certain sums expended for the Public Service in the year 1875."

Cap. 2.—"An Act to amend and repeal certain enactments of the last Session of the Legislature of this Province."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 3.—"An Act to amend the Law respecting Escheats and Forfeitures."

As the provisions of this Act appear to conform with the conclusion upon the subject of escheats and forfeitures arrived at by Council, dated 25th October, 1876, I recommend that it be left to its operation.

Cap. 4.—"An Act respecting the administration of Estates of Intestates dying without known relatives in Ontario."

This Act provides for the obtaining, by the Attorney-General of the Province, of Letters of Administration to the estates of persons who die in the Province intestate, either in whole or in part, and without leaving any known relatives, who can be readily communicated with, living elsewhere.

The third section provides that, when administration is granted to the Attorney-General, the Lieutenant-Governor in Council may direct the sale of any real estate to which the Intestate died entitled, and the said Attorney-General shall thereupon be authorized to sell such real estate, and convey the same to the purchaser.

There appears to be nothing which limits this section to real estate situate in the Province.

The powers of the Local Legislature would not appear to extend to authorize the sale of real estate outside of the Province in such a case.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 5.—"An Act respecting references to the Supreme Court of Canada and the Exchequer Court of Canada, in certain cases."

There appears to be no objection to this Act, and I recommend that it be left to its operation.

Cap. 6.—"An Act respecting the Revised Statutes of Ontario."

This Act recites that it has been found expedient to revise, classify and consolidate the Public General Statutes, which apply to the Province of Ontario and are within the Legislative authority of the Legislature of Ontario;

That such revision, classification and consolidation have been made accordingly, and it declares that a certain printed roll marked "X" and attested as that of the said statutes so revised, classified and consolidated as aforesaid, under the signature of the Lieutenant-Governor and Clerk of the Legislative Assembly, and deposited in the office of the clerk of the Legislative Assembly, shall be held to be the original thereof.

The second section provides for the incorporation into the roll of such Acts passed during the then present Session, as may be thought advisable; and the fifth section provides that the Lieutenant-Governor may, by Proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of the Revised Statutes of Ontario; and the sixth section provides that on, from and after such day the same shall accordingly come into force and effect.

The seventh section provides that the repeal of certain enactments mentioned in the schedule annexed to the roll shall not be construed as intended to extend to such of the provisions as relate to subjects in regard to which the Parliament of Canada has exclusive powers of Legislation.

As the recital refers to the Revised Statutes as a classification and consolidation of the Public General Statutes, which apply to the Province, and are within the Legislative authority of the Legislature of Ontario, and as the repeal of any enactments is limited as above mentioned, and as the original roll which by proclamation is to come into force, is deposited in the office of the Clerk of the Legislative Assem-

bly, and therefore not readily accessible, I do not think it necessary to examine critically such roll. I therefore recommend that this Act be left to its operation.

Cap. 7.—"An Act to provide for certain amendments and additions to the Statutes of the Province, as consolidated by the Commissioners appointed for that purpose."

This Act appears unobjectionable, and I recommend that it be left to its operation.

Cap. 8.—" An Act to provide for certain amendments of the Law."

Section 72 is as follows:—

" Notwithstanding anything contained in section eight of the Temperance Act of 1864, every such prohibitory by-law as therein mentioned, whether heretofore or hereafter passed, shall come into force from the first day of May next after the final passing thereof, but this provision shall not affect any question as to the validity of any by-law heretofore passed, or the time at which any by-law which may be voted on the first day of May next, shall go into effect."

Sections 76, 77 and 78 place certain restrictions as to the issue of Licenses for the sale of liquor. As mentioned in previous Reports, the question as to how far the authority of the Local Legislature in respect of restrictions upon the sale of liquor extends, is now before the Courts. I therefore merely call attention to these provisions, but recommend that the Act be left to its operation.

Cap. 9.—" An Act to give the right of voting to Farmers' Sons in certain cases."

Cap. 10.—" An Act to amend the Acts relating to the Election of Members of the Legislative Assembly.

Cap. 11.—" An Act to amend the Act passed in the thirty-eighth year of Her Majesty's reign, respecting the adjustment of the representation in the Legislative Assembly."

Cap. 12.—" An Act to extend the Voters' List Act of 1876, to Municipal Elections, and otherwise to amend the said Act."

Cap. 13.—An Act respecting payments to unorganized Townships or parts of Districts, under the Municipal Loan Fund Scheme."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 14.—" An Act respecting Aid to certain Railways and the creation of a Railway Land Subsidy Fund."

Among other Railway Companies aided by this Act, is the Montreal and City of Ottawa Junction Railway Company, which, from the boundary line between Ontario and Quebec, to or near the City of Ottawa, a distance of about sixty-six miles, is to be aided at a certain rate per mile.

The eighth sub-section of section 3 provides, that in order to secure the continuous running of the Railways aided by this Act, the iron or steel rails laid from time to time by any of the said Railways are not to be removed by the Company, or by the authority of the Company, without the consent of the Lieutenant-Governor in Council, obtained on the recommendation of the Commissioner of Public Works.

This enactment appears wide enough to include the iron and steel rails which may have been laid by the Montreal and City of Ottawa Junction Railway Company on that part of the line outside of the Province of Ontario, over which the Local Legislature has no control. It is doubtful also whether that Company would be bound by the enactment just mentioned. Inasmuch, however, as a compliance with such enactment may be considered necessary to entitle the Company to the aid mentioned, the Act may, I think, be left to its operation.

Cap. 15.—" An Act respecting 'The Free Grants and Homestead Act of 1868.' "

Cap. 16.—" An Act to amend the several Acts respecting the Education Department, Public and High Schools, and University of Toronto."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 17.—" An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures."

Section 15, amongst other things, provides that if any person wilfully injures or destroys any property within the exhibition grounds of the Agricultural and Arts Association, or of any Agricultural or Horticultural Society, he shall be liable to a fine, which is to be paid over to the Association or Society for its use and benefit.

This provision seems to entrench upon the criminal law respecting malicious injuries to property.

I recommend that the attention of the Lieutenant-Governor be called to this section.

Cap. 18.—"An Act to amend the Acts respecting the sale of Fermented or Spirituous Liquors."

The remarks above made as to the power of the Local Legislature to deal with the subject, apply to this Act.

I beg to call attention to the use of the word "offence" in the 16th, 18th, 19th, 20th, 21st, 22nd and 23rd sections.

The objections to the use of this word in describing a violation of a Provincial law were pointed out on previous occasions.

I recommend that the attention of the Lieutenant-Governor be again called to the matter.

Cap. 19.—"An Act respecting the County Court and General Sessions of the Peace and Surrogate Court of the County of York."

Cap. 20.—"An Act respecting Constables."

Cap. 21.—"An Act to amend the Act respecting Mortgages and Sales of Personal Property."

Cap. 22.—"An Act to amend the Act respecting Permanent Building Societies."

Cap. 23.—"An Act to amend the Act respecting Dentistry."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 24.—"An Act respecting the Territorial and Temporary Judicial Districts of the Province, and Provisional County of Haliburton."

The 9th and 10th sections of this Act appear to be the only ones requiring special mention, and as an important constitutional question is involved, I feel called upon to make some remarks upon them.

The 9th section repeals certain provisions of the respective Acts regarding the Territorial District of Muskoka and Parry Sound and Thunder Bay, relating to the jurisdiction and powers of the Stipendiary Magistrate, as Judge of the District or Division Court, and substitutes in each of such Acts the following:—

"The Stipendiary Magistrate shall act as Division Court Judge of the District, and shall have the like jurisdiction and powers as are possessed by the County Court Judges in Division Courts in Counties, and shall perform the like duties; and the provisions of law, from time to time, in force in Ontario, relating to Division Courts in counties, and the officers thereof, including the rules or forms made, or to be made by the Board of County Judges, and the fees payable to the Clerks and Bailiffs shall apply to the Division Courts of the said District, except where inconsistent with this Act."

Were this the first enactment of a similar nature passed by a Provincial Legislature, I would hesitate long before recommending that it should be left to its operation, as it appears to entrench upon the powers conferred upon the Governor General of Canada, by the 96th section of the British North America Act, 1867, which section is as follows:—

"The Governor General shall appoint the Judges of the Superior, District and County Courts in each Province, except those of the Court of Probate of Nova Scotia and New Brunswick."

Inasmuch, however, as Provincial Legislation has been previously left to its operation, whereby certain judicial powers in civil matters have been conferred upon Stipendiary Magistrates, and whereby Courts presided over by Stipendiary Magistrates, and having, in effect, the powers of the Division Courts of Ontario, have been constituted, I do not feel at liberty to object to the provision of the present Act, pro-

vided the jurisdiction conferred by the former Legislation upon the subject which has been left to its operation, has not in effect been substantially extended.

In a Report dated 29th September last, upon the Acts of last Session of the Legislature of British Columbia, I had occasion to remark at some length upon legislation of a nature similar to that now under consideration, and I then pointed out the danger which might ensue from this class of legislation.

I refer to that report.

The Act 31st Vic., 1868, Ontario, Cap. 35, which was passed to provide for the organization of the Territorial District of Muskoka, and under which the Stipendiary Magistrate of that District was appointed, declared that certain provisions of Cap. 128 of the Consolidated Statutes of Upper Canada, intituled: "An Act respecting the Administration of Justice in unorganized tracts," should extend and apply to said District of Muskoka.

Similar provisions are contained in the Act 33 Vict. (1869), Ontario, Cap. 24, which provides for the organization of the Territorial District of Parry Sound, and in the Act 34 Vict. (1871), Ontario, Cap. 4, which provides for the organization of the Territorial District of Thunder Bay.

The provisions of the Act of the Consolidated Statutes thus made applicable to these Territorial Districts in effect provided for the holding of a Court of civil jurisdiction in each District, under the name and style of the first (or other, as the case may be), Division Court for the District of, &c., over which the Stipendiary Magistrate should preside, and be the sole Judge in all actions brought in such Division Court, and determine all questions, as well of fact as of law, in relation thereto, in a summary manner, with power, should he think fit, to summon a jury of five persons to try the fact controverted in a case.

For every such Court provision is made for an appointment of a Clerk and one or more Bailiffs.

The jurisdiction of the Court is declared to be over all personal actions, save certain excepted ones, where the debt or damages claimed is not more than $100. Each Court is to have a seal, with which all summonses and other processes shall be sealed or stamped.

Suits are to be commenced by summons to the Defendant, issued by the Clerk, containing the particulars of the Plaintiff's demand.

Provision is made for the subpœnaing of witnesses. That the Judgment of the Court, with certain exceptions, to be final and conclusive. Provisions are made for the enforcement of the judgments by execution. Proceedings and suits against absconding debtors are provided for.

The Magistrate is given jurisdiction on the consent of the parties, to try and determine cases up to $800 in amount.

In addition to the Act in the Consolidated Statutes, above referred to, which has been made applicable to the three Districts mentioned, certain provisions of the Act respecting Division Courts, being Cap. 19 of the Consolidated Statutes of Upper Canada, and of the Act to amend the Acts respecting Division Courts, being Cap. 23 of 32 Vic. (1868-9) Ontario, are made applicable to the districts of Parry Sound and Thunder Bay. The provisions of the Act respecting Division Courts referred to, relate to examination of Judgment Debtors, claims of Landlords to goods seized in execution.

The provisions of the Act 32 Vic. (1868-69), Ontario, amending the Acts respecting Division Courts, provide that all judgments in the Division Courts shall have, and continue to have the same force and effect as judgments of Courts of Record.

Provisions are made for the entry of final judgment by the Clerk when the claim is not disputed, and proceedings for the garnishment of debts are provided for. It will be thus seen that the jurisdiction of the Courts presided over by the Stipendiary Magistrates of the three Districts above mentioned, was before the passing of the Act now under consideration, practically as extensive as the jurisdiction of the various Division Courts in the Province, and in some cases was more extensive.

The present Act does not, therefore, seem to extend, to any substantial extent, the jurisdiction previously possessed by those Courts.

The section now under consideration, however, not only declares that the Stipendiary Magistrate as Division Court Judge shall have the like jurisdiction and powers as are now possessed by the County Court Judges in Division Courts in Counties, but goes on to provide that the provisions of law, from time to time in force in Ontario, relating to the Division Courts in Counties and Officers thereof, &c., shall apply to the Division Courts of these Districts. This provision is, I think, objectionable, inasmuch as although it may be quite within the Legislature of Ontario to increase the jurisdiction of the Division Courts in Counties, as such Courts are now presided over by Judges appointed by the Dominion, yet their jurisdiction might be increased to an extent that might be objectionable in the case of these District Division Courts, the Judges of which are appointed by Ontario. Were the section limited in its operation to the jurisdiction and power, &c., of the County Court Judges in Division Courts and Counties as now existing, I should not, for the reasons above mentioned, recommend any interference with the Act. I recommend, however, that the attention of the Lieutenant-Governor be called to the objection referred to, with a request that his Government may promote, at the next Session, and before the time expires for determining as to the disallowance of the Act, amendatory legislation.

Among the provisions of the Act, relating to Division Courts which by the section under consideration are made applicable to the Courts of the Districts referred to, are certain provisions which appear to be beyond the Legislative authority of the Local Legislature, inasmuch as they seem to form part of the criminal law.

I refer to section 48, which declares that any person wrongfully holding or getting possession of accounts, money, books, &c., in the possession of the Clerk, shall be guilty of a misdemeanor. To section 105, which provides for that, in case any person in any examination wilfully and corruptly gives evidence or wilfully swears or affirms falsely, he shall be liable to the penalties of wilful and corrupt perjury, To section 181, which declares that every person who forges the seal or any process of the Court or who serves or enforces any such forged process knowing the same to be forged, &c., shall be guilty of felony. To section 184, which provides that, if any Officer or Bailiff be assaulted while in the execution of his duty; or if any rescue be made or attempted, of any property seized, &c., the person so offending shall be liable to a certain fine.

I recommend that the attention of the Lieutenant-Governor be called to these matters.

Section 10 repeals certain provisions of Cap. 128 of the Consolidated Statutes of Upper Canada, intituled: "An Act respecting the Administration of Justice in unorganized tracts," and substitutes in lieu the following:—

The Stipendiary Magistrate of every temporary Judicial District shall act as Division Court Judge of the District, and shall have the like jurisdiction and powers as are possessed by County Court Judges in Division Courts in Counties, and shall perform the like duties, and the provisions of law from time to time in force in Ontario, relating to Division Courts in Counties, and the Officers thereof, including the rules or forms made or to be made by the Board of County Judges, and the fees payable to the Clerks and Bailiffs, shall extend to the Division Courts of temporary Judicial Districts, except where inconsistent with this Act; provided that the provisions of law authorizing the signing of judgment by default for want of a notice disputing the Plaintiff's claim, or authorizing the garnishment of debts or money demands, shall not apply to the said Division Courts.

The remark I have made upon section 9 applies equally to this section. I recommend that a similar course be pursued with reference to it.

By some of the sections which are so repealed, provisions are made which appear to form part of the criminal law, and, as such, are beyond the Legislative authority of the Local Legislature. The sections I refer to are 17, which declares that certain persons unlawfully holding or getting possession of certain books, papers, &c., shall be guilty of a misdemeanor. Section 29 relating to the forging of the seal or process of the Court, &c. Section 80, relating to assault of an Officer or Bailiff of the Court while in the execution of his duty or rescuing the goods seized, &c.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 25.—"An Act to amend the Act entitled; 'An Act respecting Municipal Institutions in the Province of Ontario.'"

Cap. 26.—"An Act respecting the drainage of certain lands by Municipalities, and to amend an Act respecting Municipal Institutions in the Province of Ontario."

Cap. 27.—"An Act to amend the Assessment Act of 1869."

Cap. 28.—"An Act to further amend the Assessment Acts."

Cap. 29.—"An Act to amend the Act respecting Line Fences."

Cap. 30.—"An Act to apply the Municipal Law to certain Townships in the District of Nipissing."

Cap. 31.—"An Act respecting the Municipality of Shuniah."

Cap. 32.—"An Act respecting the Municipality of Sault Ste. Marie."

Cap. 33.—"An Act for the incorporation of the Town of Belleville as a City, and for the consolidation of the Debt thereof."

Cap. 34.—"An Act to incorporate the City of Brantford."

Cap. 35.—"An Act to extend and define the limits of the Town of Orillia."

Cap. 36.—"An Act respecting the Village of Port Elgin."

Cap. 37.—"An Act to amend the Waterworks Acts of the City of Ottawa."

Cap. 38.—"An Act to provide for the erection of a Court House in the City of Hamilton."

Cap. 39.—"An Act respecting the City of Toronto, the Toronto Waterworks and other matters."

Cap. 40.—"An Act to legalize a certain By-law and certain Debentures of the City of Toronto."

Cap. 41.—"An Act to legalize a By-law of the County of Simcoe."

Cap. 42.—"An Act respecting By-law No. 240, of the Town of Windsor.

Cap. 43.—"An Act to consolidate the debt of the Port Hope Harbor.

Cap. 44.—"An Act to enable the Corporation of Cobourg to aid a certain Manufacturing Establishment."

Cap. 45.—"An Act to authorize the Town of Dundas to pass a By-law exempting the Canada Screw Company from taxes."

Cap. 46.—"An Act to empower the Council of the Municipality of the Township of Adelaide to sell certain Lands."

Cap. 47.—"An Act to alter and amend the Survey of the Lands of the Canada Company in the Townships of Bosanquet and McGillivray."

Cap. 48.—"An Act to Legalize a Survey in the Township of Matilda."

Cap. 49.—"An Act relating to St. Mark's Church, Niagara."

Cap. 50.—"An Act respecting St. John's Church, Iroquois."

Cap. 51.—"An Act respecting St. Paul's Church, in the Village of Almonte."

Cap. 52.—"An Act respecting St. Paul's Church, Newmarket."

Cap. 53.—"An Act respecting St. Paul's Church, Toronto."

Cap. 54.—"An Act respecting the Church of St. Alban the Martyr in Ottawa."

Cap. 55.—"An Act to enable the Synod of Niagara to sell Lands in Arthur."

Cap. 56.—"An Act to authorize the Synod of the Diocese of Huron to sell certain Lands in the Township of Warwick."

Cap. 57.—"An Act respecting the Presbyterian Church at Orillia."

Cap. 58.—"An Act respecting the Roman Catholic Episcopal Corporation of the Diocese of Hamilton."

Cap. 59.—"An Act to incorporate the William Hall Peterborough Protestant Poor Trust."

Cap. 60.—"An Act for the incorporation of the Conference of the Christian Church in Ontario."

Cap. 61.—"An Act to incorporate the Ontario Missionary Society of the Methodist Episcopal Church in Canada."

Cap. 62.—"An Act to amend the Act incorporating the Upper Canada Bible Society."

Cap. 63.—" An Act to amend the Act of incorporation of the Canadian Literary Institute of Woodstock."

Cap. 64.—" An Act to incorporate Alma College at St. Thomas.

Cap. 65.—" An Act to incorporate Trinity Medical School."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 66.—" An Act to incorporate the Standard Fire Insurance Company."

Although the first section incorporates this Company for the purpose of carrying on the business of Fire Insurance and doing all things appertaining thereto, in the Province of Ontario, the 18th section empowers the Company to effect contracts of Insurance with any person or persons against loss or damage by fire or lightning on any house, store or any building whatsoever, and in like manner on any goods chattels or personal estate whatsoever, and generally to do all matters and things relating to or connected with Fire Insurance as aforesaid.

It may be that the limitation to the Province of Ontario, contained in the first section, will extend to the general provisions of the 18th section. It cannot, however be said to be free from doubt.

I recommend that the attention of the Lieutenant-Governor be called to this section.

Cap. 67.—" An Act to incorporate the People's Gas Company."

Cap. 68.—" An Act to incorporate the Industrial Exhibition Company."

Cap. 69.—" An Act respecting the Bothwell (C. W.) Land and Petroleum Company (Limited)."

Cap. 70.—An Act respecting the Pickering Harbor and Road Joint Stock Company."

Cap. 71.—" An Act respecting the Peel General Manufacturing Company."

Cap. 72.—" An Act to incorporate the Leamington, Comber and Lake St. Clair Railway Company."

Cap. 73.—" An Act to incorporate the Niagara and St. Catharines' Railway and Steamboat Company."

Cap. 74.—" An Act respecting the Port Dover and Lake Huron Railway Company."

Cap. 75.—" An Act respecting the North Simcoe Railway Company."

Cap. 76.—" An Act relating to the Hamilton and North-Western Railway Company."

Cap. 77.—" An Act respecting the Credit Valley Railway Company."

Cap. 78.—" An Act respecting the Toronto, Grey and Bruce Railway."

Cap. 79.—" An Act respecting the Stratford and Huron Railway."

Cap. 80.—" An Act respecting the Huron and Quebec Railway Company."

Cap. 81.—" An Act respecting the Cobourg, Peterborough and Marmora Railway and Mining Company.

Cap. 82.—" An Act to amend the Acts relating to the Whitby and Port Perry Extension Railway Company."

Cap. 83.—" An Act to incorporate the Guelph Street Railway Company."

Cap. 84.—" An Act to incorporate the Metropolitan Street Railway Company of Toronto."

Cap. 85.—" An Act respecting the Toronto Street Railway Company."

Cap. 86.—" An Act respecting the St. Catharines Street Railway Company."

Cap. 87.—An Act for the admission of Wm. E. Idsardi as a Provincial Land Surveyor."

Cap. 88.—" An Act to make verbal corrections in certain Acts of the present Session."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Z. A. LASH,
D. M. J.

I concur.
R. LAFLAMME, M. J.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th October*, 1877.

The Committee of Council have had before them a Report dated 3rd October, 1877, from the Hon. the Minister of Justice, upon the Acts passed by the Legislature of the Province of Ontario, in the Fortieth year of Her Majesty's reign (1877), and they concur in the views and recommendations therein submitted, and accordingly advise that the Acts alluded to be left to their operation; that the attention of the Lieutenant-Governor be called to the views and remarks submitted in the Report of the Minister of Justice, and, with that view, that a copy of said Report be transmitted to the Lieutenant-Governor.

Certified.

(Signed.) JOS. COTÉ,
Asst. Clerk P.C.

Mr. Assistant Secretary Eckart to Secretary of State.

TORONTO, 7th November, 1877.

SIR,—With reference to your Despatch of 29th ultimo, forwarding a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice, on the subject of the Acts passed by the Legislature of this Province, at the recent Session thereof (40 Vic., 1877), I am now directed to request that a copy of the Report of the Honorable the Minister of Justice, under date 29th September last, upon the Acts of the last Session of the Legislature of British Columbia, be forwarded to this Government.

I have, &c.,

I. R. ECKART,
Assistant Secretary.

Hon. Secretary of State,
Ottawa.

Under Secretary of State to Provincial Secretary.

DEPARTMENT SECRETARY OF STATE, OTTAWA, 12th November, 1877.

SIR,—In compliance with the request contained in the letter from your Department, of the 7th inst., I am directed to transmit to you herewith, for the information of His Honor the Lieutenant-Governor of Ontario, a copy of the Report of the Hon. the Minister of Justice, on the Statutes of the Legislature of the Province of British Columbia, at the late Session thereof (40 Vic., 1877).

I have, &c.,

E. J. LANGEVIN,
Under Secretary of State.

Hon, Provincial Secretary, Toronto.

Mr. Assistant Secretary Eckart to Secretary of State.

PROVINCIAL SECRETARY'S OFFICE, TORONTO, 13th November, 1877.

SIR,—I have the honor to acknowledge the receipt of your letter of 12th instant, transmitting, for the information of His Honor the Lieutenant-Governor, a copy of the Report of the Honorable the Minister of Justice, on the Statutes of the Legislature of the Province of British Columbia at the late Session thereof.

I have, &c.

I. R. ECKART,
Assistant Secretary.

Hon. the Secretary of State,
Ottawa.

Mr. Assistant Secretary Eckart to Secretary of State.

PROVINCIAL SECRETARY'S OFFICE, TORONTO, 4th December, 1877.

SIR,—With further reference to the correspondence that has taken place respecting the Acts passed by the Legislature of this Province at the recent Session thereof (40 Vic., 1877), I am now directed to transmit herewith, for the information of His Excellency the Governor General, a copy of an Order in Council, approved by His Honor the Lieutenant-Governor, the 3rd instant, together with a copy of a Report of the Honorable the Attorney-General, dated the 26th November last, having regard to these Acts.

I have, &c.,

I. R. ECKART,
Assistant Secretary.

Hon. the Secretary of State,
Ottawa.

COPY *of an Order in Council approved by His Honor the Lieutenant-Governor, the 3rd day of December, A.D.*, 1877.

The Committee in Council have had under consideration a Despatch of the Honorable the Secretary of State of Canada, dated 12th day of November instant, enclosing a copy of an Order of His Excellency the Governor General in Council, dated the 26th day of October, 1877, respecting the Acts passed by the Legislature of this Province at its last Session, and also a copy of the Report of the Honorable the Minister of Justice, upon which the said Order is founded.

The Committee have also had under consideration the annexed Report of the Honorable the Attorney-General, dated the 26th day of November instant, with reference to the said Despatch and enclosure.

The Committee concur in the Report of the Honorable the Attorney-General, and advise that a copy thereof and of this Minute of Council be transmitted by Your Honor, to the Government of Canada.

J. G. SCOTT,
Clerk Executive Council, Ontario.

Hon. the Provincial Secretary.

Report of Attorney-General Mowat.

The undersigned respectfully reports that he has had under consideration the Despatch of the Hon. the Secretary of State of Canada, dated 12th November, enclosing a copy of an Order of His Excellency in Council, dated 26th October, 1877, respecting the Acts passed by the Legislature of this Province at its last Session, and also a copy of a Report of the Minister of Justice, dated 3rd October last, and on which the said Order is founded.

The Report suggests that the attention of Your Honor should be directed to five (5) of the eighty-eight (88) Acts passed at the last Session of the Legislature.

With respect to three of these, namely, Chapters four (4), seventeen (17) and twenty-four (24), some provisions therein are objected to, as not being confined, or not being expressly and clearly confined, to matters within the jurisdiction of the Provincial Legislature. The way in which the provisions referred to are dealt with in the Revised Statutes, appears to be free from the objections suggested in the Report, and as the Revised Statutes repeal the Acts in which the objectionable clauses occur, and will go into force in a few weeks, the undersigned does not think it necessary to discuss at present any of the objections referred to.

The eighteenth (18) Chapter being the "Act to amend the Act respecting the sale of Fermented and Spirituous Liquors," is objected to, because of the use of the word "offence" in certain sections of the Act, and the Report observes that the objections to the use of the word in describing a violation of the Provincial law, had been pointed out on previous occasions.

The undersigned does not recollect that this objection has been made in any Report upon the Legislation of the Ontario Legislature, since the Report of the Minister of Justice, communicated by the Hon. the Secretary of State, in a Despatch dated 9th September, 1878, enclosing a copy of the Order of His Excellency in Council, dated 3rd August, 1873. The Report of the undersigned in answer, dated 8th December, 1873, and approved by the Lieutenant-Governor in Council on the 8th January, 1874, and communicated to the Hon. the Secretary of State on the 14th of the same month, is not referred to in the Report of the Minister now under consideration, and the undersigned presumes that his Report of the 8th of December, 1873, has been overlooked, though the argument contained in it, on the point in question, was supposed to have been acquiesced in by the Dominion Government.

The undersigned would therefore again respectfully submit that the word "offence" is a convenient and proper term to employ in speaking of a violation of a Provincial law; that it is used in that sense in Dominion legislation, as, for exemple, in 31 Victoria, Chapter 71, section 3: that violations of the provisions of the Tavern and License Act were, in the Queen *vs.* Boardman, 30 U. C. Q. B. 553, expressly held by the Court of Queen's Bench to be "offences"; that violations of even Municipal laws are commonly and properly called offences, and that beyond all doubt there are many offences which are not crimes in any recognized sense; not to speak of the somewhat limited sense which it may be argued that the expression "criminal law," has in the British North America Act.

The fourth Act objected to is a private Act, namely, Chapter sixty-six, the Act to incorporate the Standard Fire Insurance Company. The first section of this Act incorporates the Company for the purpose of carrying on the business of Fire Insurance and doing all things pertaining thereto in the Province of Ontario; and the eighteenth section empowers the Company to effect contracts of insurance, and does not therefore expressly limit these powers to the Province of Ontario. But it is so manifest that by the first section, the Legislature only professed to give powers of carrying on business in Ontario, that the undersigned hopes that it will not be thought necessary to disallow the Act, or to require an Act to be passed amending it.

O. MOWAT.

November 26th, 1877.

ONTARIO, 41ST VICTORIA, 1878.

3RD SESSION—3RD PARLIAMENT.

Mr. Assistant Secretary Eckart to Secretary of State.

TORONTO, 11th March, 1878.

SIR,—I am directed to transmit herewith, for the information and approval of His Excellency the Governor General, certified copies of the Acts passed by the Legislature of this Province at its last Session, being in the Forty-first year of Her Majesty's reign.

I have, &c.,

I. R. ECKART,
Assistant Secretary.

The Honorable
The Secretary of State, Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th February, 1879.

I have the honor to report that, after a careful perusal and consideration of the Acts of the Legislature of the Province of Ontario, passed in the Forty-first year of Her Majesty's reign (1878), I find the same free from objection. I therefore recommend that such Acts, being Chapters one to seventy-five inclusive, be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. MACDONALD,
M. J.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 21st *May*, 1879.

On a Report dated 17th February, 1879, from the Honorable the Minister of Justice, stating that the Acts of the Legislature of the Province of Ontario, Chapters 1 to 75 inclusive, passed in the Forty-first year of Her Majesty's reign, are free from objection, and recommending that such Acts be left to their operation.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

ONTARIO, 42ND VICTORIA, 1879.

4TH SESSION—3RD PARLIAMENT.

Mr. G. F. C. Smith to Secretary of State.

THE LIVERPOOL AND LONDON AND GLOBE INSURANCE COMPANY.
MONTREAL, 30th June, 1879.

SIR,—I have the honor to transmit herewith, for presentation to the Governor General in Council, the humble Petition of The Liverpool and London and Globe Insurance Company, for the disallowance of an Act passed by the Legislature of the Province of Ontario at its last Session (Chap. 75), and known as "The City of Toronto Consolidated Debenture Act, 1879."

I have, &c.,

G. F. C. SMITH,
Recording Secretary.

Hon. J. C. AIKINS, Secretary of State,
Ottawa.

Petition of "The Liverpool and London and Globe Insurance Company" to Governor General, in re Chapter 75.

To His Excellency the Governor General of Canada in Council:

The humble Petition of "The Liverpool and London and Globe Insurance Company" showeth as follows:—

1. That the corporation of the city of Toronto, some time since, put upon the London money market, sterling debentures, called waterworks debentures, to a large amount, and your petitioners, who are an English corporation, became the purchasers, and are now the holders of such debentures, to the amount of £50,000 sterling.

2. That the Statutes and by-law authorizing the issue of the said debentures provided for the levy by taxation, in each year during the currency of the said debentures, of a special rate of one mill and eight-tenths of a mill in the dollar, in addition to all other rates upon all the ratable property in the city; and for the investment of all money arising from the said rate beyond the amount required to pay the interest on the said debentures, for the purpose of creating a sinking fund exclusively for the redemption of the said debentures at maturity. That the said special rate produced on the then assessment of the city, eighty-four thousand dollars a year, leaving, after payment of the interest, thirty thousand dollars a year and interest thereon, applicable to the sinking fund, irrespective of the increase in the assessed value of the city, which has largely advanced, and will further advance, and whereby the sinking fund would be proportionately increased.

3. That it was on the basis of the security thus afforded, that your petitioners became such purchasers.

4. That your petitioners learn that at the last Session of the Legislature of Ontario a private Act was passed at the instance of the Corporation of the city of Toronto intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto," whereby, amongst other things, the accumulated sinking funds,

(including that levied in respect of your petitioners' said bonds), were authorized to be diverted and applied in payment of other debts, not including your petitioners said bonds, and whereby also, instead of the sinking funds previously provided, a rate of three-quarters of one per centum on all the city debentures, was authorized to be levied, in addition to a rate for interest, and whereby the moneys arising from the substituted sinking fund rate were authorized to be applied from time to time, in redemption of any of the city debentures.

By the operation of this Act your petitioners will be deprived of their existing accumulated sinking fund, and of the adequate sinking fund rate already prescribed, and in lieu thereof a rate producing only $6,150 a year in respect of the issue of debentures, of which your petitioners form part, will be levied, and the proceeds of this wholly inadequate rate, instead of being specially devoted to the redemption of your petitioners' bonds, may be and will be, diverted to other purposes.

5. That no notice was given of the intention to propose such legislation; and your petitioners had no knowledge thereof, nor any opportunity to oppose the same.

6. That the said Act deprives your petitioners of the security on the faith whereby they became purchasers of the said funds, and thus operates most injuriously against your petitioners.

7. That such legislation should not have been passed, save subject to the assent of the bondholders interested.

8. That to pass such legislation without the assent, and against the will of the bondholders, is a violent interference with their just rights, a great injustice to them, and calculated to shake the confidence of English and Foreign Investors in all securities issued under the authority of Canadian Provincial Legislation; since no dependence can hereafter be placed on the conditions under which a loan has been contracted remaining obligatory, longer than suits the interests or convenience of the debtor.

9. That the injustice to your petitioners and other English investors is so flagrant, and the general consequence of such legislation must be so injurious, that the Act should be disallowed.

10. Your petitioners, therefore, humbly pray that the said Act may be disallowed.

HENRY STARNES, *Chairman.*
THOMAS CRAMP, *Deputy Chairman.*
A. T. GALT, *Director.*
GEORGE STEPHEN, *Director.*

G. F. C. SMITH, Recording Secretary.
MONTREAL, 30th June 1879.

Mr. Under Secretary Langevin to the Mayor of Toronto.

DEPARTMENT OF THE SECRETARY OF STATE, 9th July, 1879.

SIR,—I am directed to transmit to you herewith, for such remarks as the Corporation of the city of Toronto may think proper to make thereon, a copy of a petition from the Liverpool and London and Globe Insurance Company, praying for the disallowance of the Act passed by the Legislature of Ontario during its last Session, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto."

I have, &c.,

E. J. LANGEVIN,
Under Secretary of State.

His Worship the Mayor,
Toronto.

Mr. Under Secretary Langevin to Provincial Secretary, Toronto.

DEPARTMENT OF THE SECRETARY OF STATE, 9th July, 1879.

SIR,—I am directed to transmit to you herewith, for the information of His Honor the Lieutenant-Governor of Ontario, a copy of a petition from the Liverpool and London and Globe Insurance Company, praying for the disallowance of the Act passed by the Legislature of Ontario during its last Session, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto."

I am at the same time to state that a copy of the petition has been transmitted to the Corporation of Toronto, for their remarks thereon.

I have, &c.,

E. J. LANGEVIN,

U. S. S.

The Hon. the Provincial Secretary,
Toronto.

Deputy Minister of Justice to Under Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 4th December, 1879.

Unless a reply has already been received to the communication addressed by the Secretary of State, in July last, to the Mayor of the city of Toronto, and to the Honorable the Provincial Secretary, Toronto, respecting the petition from the Liverpool and London and Globe Insurance Company, praying for the disallowance of the Act passed by the Legislature of Ontario during its last Session, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto,"

I recommend that a communication be at once addressed to each of the parties, asking for an immediate reply.

Z. A. LASH,

D. M. J.

The Under Secretary of State.

Mr. Under Secretary Langevin to Provincial Secretary, Toronto.

OTTAWA, 9th December, 1879.

SIR,—I am directed to invite your attention to my letter of the 9th July last, and to the copy of the petition, therein enclosed, of the Liverpool and London and Globe Insurance Company, praying for the disallowance of an Act of the Ontario Legislature, passed during its last Session, intituled: "An Act respecting the Debenture Debt, and other property of the City of Toronto," and to request that immediate reply to the said petition may be sent to this Department.

I have, &c.,

EDOUARD J. LANGEVIN,

Under Secretary of State.

Hon. the Provincial Secretary,
Toronto.

Mr. Assistant Secretary Eckart to Secretary of State.

TORONTO, 11th December, 1879.

SIR,—I have the honor to acknowledge the receipt of your letter of the 9th instant, respecting the petition of "The Liverpool and London and Globe Insurance Company," praying for the disallowance of an Act of the Legislature of this Province, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto," and, in reply, to enclose herewith a copy of a communication from the Treasurer of this city, together with its enclosure, intimating that the petition alluded to, has been withdrawn.

I have, &c.,

I. R. ECKART,
Assistant Secretary.

Hon. the Secretary of State (Canada).

City Treasurer, Toronto, to Provincial Secretary, Toronto.

TORONTO, 21st July, 1879.

SIR,—The City Clerk has handed me your letter with reference to the petition of "The Liverpool and London and Globe Insurance Company," praying for the disallowance of the Act passed at the recent Session of the Ontario Legislature, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto," and I have to inform you that the same has been withdrawn, as per letter of the Honorable Edward Blake, who filed the same. Copy of letter herewith.

I have, &c.,

S. B. HARMAN,
City Treasurer.

I. R. ECKART, Esq.,
Assistant Secretary, Toronto.

Hon. E. Blake to City Clerk, Toronto.

TORONTO, 17th July, 1879.

Re Liverpool, London and Globe Insurance Company, and Toronto Waterworks Bonds.

SIR,—I am authorized by my clients to withdraw, and do accordingly now withdraw, the protest against the issue of debentures, contained in my letter of 21st ultimo to you.

Yours truly,

EDWARD BLAKE.

The City Clerk,
Toronto.

City Treasurer, Toronto, to Secretary of State.

CITY TREASURER'S OFFICE, TORONTO, 12th January, 1880.

SIR,—His Worship the Mayor of Toronto, has handed me your letter of 9th ultimo, in relation to a petition of the Liverpool, London and Globe Insurance Company, praying for the disallowance of an Act of the Ontario Legislature, passed during its last Session, intituled: "An Act respecting the Debenture Debt and other property of the City of Toronto," and in reply to the same, I have the honor to state that the said Petition was withdrawn by the Honorable Edward Blake, Q.C., M.P., who was retained by the parties to prosecute the same, and all action on the same abandoned.

I have, &c.,

SAMUEL B. HARMAN,
City Treasurer.

Hon. J. C. AIKINS,
Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 7th November, 1879.

I have the honor to report that, at the last Session of the Ontario Legislature, an Act (Chap. 13) was passed reducing the number of grand jurors from twenty-four to fifteen, but as the Legislative authority, with respect to grand jurors in criminal matters, possessed by Provincial Legislatures, is doubtful, the Act contains a clause suspending its operation till brought into force by proclamation.

The Attorney-General of Ontario has communicated with this Department on the subject, with a view to having the question, as to the authority of the Parliament of Canada and the Local Legislatures respectively, in connection with grand jurors, submitted to the Supreme Court of Canada.

I recommend that this Department be authorized to agree with the Ontario Government upon the questions to be submitted; the action which may be taken, to be reported to Council for further order.

JAMES McDONALD,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 11*th November* 1879.

On a Report dated 7th November 1879, from the Honorable the Minister of Justice, stating that at the last Session of the Ontario Legislature an Act was passed, reducing the number of grand jurors from twenty-four to fifteen, but as the Legislative authority with respect to grand jurors in criminal matters possessed by Provincial Legislatures, is doubtful, the Act contains a clause suspending its operation till brought into force by proclamation, and that the Attorney-General of Ontario has communicated with the Department of Justice on the subject, with a view to having the question as to the authority of the Parliament of Canada and the Local Legislatures respectively, in connection with grand jurors, submitted to the Supreme Court of Canada.

The Minister recommends that his Department be authorized to agree with the Ontario Government upon the questions to be submitted—the action which may be taken, to be reported to the Council for further order.

The Committee advise that the necessary authority be granted.

Certified.

(Signed) W. H. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 12th January, 1880.

With respect to the Statutes passed by the Legislature of the Province of Ontario, in the month of March, 1879, I have the honor to report as follows:—

Cap. 1.—"An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government, for the year one thousand eight hundred and seventy-nine, and for other purposes therein mentioned."

Cap. 2.—"An Act respecting the Northerly and Westerly Boundaries of Ontario."

Cap. 3.—"An Act to make further provisions respecting Voters' Lists."

Cap. 4.—"An Act to make further provisions respecting Election of Members of the Legislative Assembly."

Cap. 5.—"An Act respecting the office of Sheriff."

Cap. 6.—"An Act to extend the Act respecting the Heir, Devisee and Assignee Commission."

Cap. 7.—"An Act for further investment of Public Money in Municipal and Drainage Debentures."

Cap. 8.—"An Act to authorize investments in Municipal Debentures issued in aid of Stone or Timber Drainage."

Cap. 9.—"An Act respecting payments, under the Municipal Loan Fund Scheme, where Indians are interested."

Cap. 10.—"An Act to amend the Agricultural and Arts Act."

Cap. 11.—"An Act to incorporate the Poultry Association of Ontario."

Cap. 12.—"An Act respecting the registration of deaths."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 13.—"An Act respecting Grand Juries."

This Act is not to come into force until a day to be named by the Lieutenant-Governor by his proclamation. It reduces the number of grand jurors required to make a panel, from twenty-four to fifteen.

The operation of the Act was suspended, owing to the doubt which exists as to the Legislative authority of the Provincial Legislature over the constitution of the grand jury in criminal matters. It has been agreed between the Governments of the Dominion and of the Province, to submit the question to the Supreme Court for decision. If the Supreme Court decides against the right of the Provincial Legislature to pass this Act, it will doubtless be repealed; and, in the meantime, as it is not in operation, I recommend that if the Ontario Government will agree not to put it in operation, and to repeal it, if it be *ultra vires*, the power of disallowance be not exercised; otherwise, that it be disallowed, and that the Lieutenant-Governor be so informed.

Cap. 14.—"An Act to amend the Jurors' Act."

Cap. 15.—"An Act to make certain provisions respecting the Practice of the Courts."

Cap. 16.—"An Act to amend the Law as to the Limitation of Actions."

Cap. 17.—"An Act to amend the Act respecting Coroners."

Cap. 18.—"An Act to amend the Act respecting the Fees of Counsel and other Officers in the Administration of Justice."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 19.—"An Act respecting the Administration of Justice in the Northerly and Westerly parts of Ontario."

This Act will be reported upon separately.

Cap. 20.—"An Act to give to Mortgagees certain powers now commonly inserted in Mortgages."

Cap. 21.—"An Act respecting investments of Trust Funds."

Cap. 22.—"An Act to amend the Law of Dower."

Cap. 23.—"An Act to extend the powers of Gas Companies."

Cap. 24.—"An Act respecting Steam and Heating Companies."

Cap. 25.—"An Act to provide for the inspection of Insurance Companies."

Cap. 26.—"An Act to amend the Building Societies Act."

Cap. 27.—"An Act to amend the Railway Act of Ontario."

Cap. 28.—"An Act to authorize the issuing of scrip for Railway Grants in certain cases."

Cap. 29.—"An Act respecting the power of Mechanics' Institutes and Library Associations to deal with their Real Estate."

Cap. 30.—"An Act to extend the right of taking the security of Guarantee Companies."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 31.—"An Act to amend the Municipal Law."

Some of the provisions of this Act relate to the vexed question of licenses, some relating to the sale of meat, others to transient traders occupying premises in cities, towns, &c., for temporary periods, whose names are not on the assessment roll.

It may be argued that the provisions interfere with the power of the Dominion Parliament over the regulation of trade and commerce, but as the matter is by no means clear, and as any person thinking himself aggrieved, will be enabled to contest the validity of the Act before the Courts, I recommend that the power of disallowance be not exercised.

Cap. 32.—"An Act to amend the Assessment Act."

Cap. 33.—"An Act to protect Plum and Cherry Trees."

Cap. 34.—"An Act respecting Separate and High Schools."

Cap. 35—"An Act to amend the Act respecting the income and property of the University of Toronto, University College and Upper Canada College."

Cap. 36.—"An Act to authorize certain variations in Deeds to Trustees for Religious Institutions."

Cap. 37.—"An Act respecting the application of the Religious Institution Act to the Church of England."

Cap. 38.—"An Act respecting the Andrew Mercer Ontario Reformatory for Females."

Cap. 39.—"An Act to establish an Industrial Refuge for Girls."

Cap. 40.—"An Act respecting the Municipality of Shuniah."

Cap. 41.—"An Act to incorporate the City of Guelph."

Cap. 42.—"An Act to incorporate the Town of Mount Forest."

Cap. 43.—"An Act relating to the incorporation of the Village of Tiverton."

Cap. 44.—"An Act to extend the limits of the Town of Walkerton."

Cap. 45.—"An Act to provide for the division of the Township of Colchester."

Cap. 46.—"An Act to amend the boundary lines of the Town of Ingersoll."

Cap. 47.—"An Act respecting the Township of Harvey, in the County of Peterborough."

Cap. 48.—"An Act respecting Billing's Bridge and to legalize the conveyance thereof to the Ottawa and Gloucester Road Company."

Cap. 49.—"An Act to incorporate the Lake Scugog Marsh Lands Drainage Company."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 50.—"An Act respecting certain Dams on Beaver Creek and other streams in the Counties of Hastings and Addington."

This Act will be reported upon separately.

Cap. 51.—"An Act respecting the Walkerton School Lands."

Cap. 52.—"An Act for the relief of the Barton and Glanford Road Company."

Cap. 53.—"An Act respecting the Belleville and North Hastings Railway Company."

Cap. 54.—"An Act to amend the Acts relating to the Brantford, Norfolk and Port Burwell Railway Company."

Cap. 55.—"An Act respecting an agreement entered into between the City of Brantford and the Grand Trunk Railway Company."

Cap. 56.—"An Act respecting the Georgian Bay and Wellington Railway Company."

Cap. 57.—"An Act respecting the Grand Junction Railway Company."

Cap. 58.—"An Act to incorporate the Grey and Walkerton Railway Company."

Cap. 59.—"An Act to amend the Act incorporating the Hamilton and Dundas Street Railway Company."

Cap. 60.—"An Act relating to the Hamilton and North-Western Railway Company."

Cap. 61.—"An Act to legalize certain By-Laws and Debentures of the County of Kent, in aid of the Erie and Huron Railway Company."

Cap. 62.—"An Act respecting the Lake Simcoe Junction Railway Company."

Cap. 63.—"An Act respecting the Leamington, Comber and the Lake St. Clair Railway Company."

Cap. 64.—"An Act to incorporate the Ontario Central Railway Company."

Cap. 65.—"An Act to incorporate the Snowdon Branch Railway."

Cap. 66.—"An Act respecting the Stratford and Huron Railway Company."

Cap. 67.—"An Act respecting certain property in the Town of Peterborough, and to amend an Act respecting the Toronto and Ottawa Railway."

Cap. 68.—"An Act to incorporate the Waterloo, Wellington and Georgian Bay Railway Company."

Cap. 69.—"An Act respecting the Whitby and Bobcaygeon Railway Extension Company."

Cap 70.—"An Act respecting the Whitby, Port Perry and Lindsay Railway Company."

Cap 71.—"An Act to incorporate the Windsor and Essex Centre Railway Company."

Cap. 72.—"An Act respecting the Yorkville Loop Line Railway Company."

Cap. 73.—"An Act to incorporate the Brantford Street Railway Company."

Cap. 74.—"An Act to consolidate the debt of the County of Middlesex."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 75.—"An Act respecting the Debenture Debt and certain property of the City of Toronto."

A petition from the Liverpool, London and Globe Insurance Company, praying for the disallowance of this Act, was received, but subsequently the opposition was withdrawn. I recommend that this Act be left to its operation. (*Note.—See pp.* 153-157 *ante*).

Cap. 76.—"An Act to legalize a certain By-Law of the Town of Strathroy."

Cap. 77.—"An Act respecting Waterworks for the Town of Guelph."

Cap. 78.—"An Act respecting Waterworks for the City of Ottawa."

Cap. 79.—"An Act to legalize certain By-Laws of the City of St. Catharines and to amend the several Acts relating to the Waterworks of said City."

Cap. 80.—"An Act to incorporate the Ontario Veterinary Asssociation."

Cap. 81.—"An Act to incorporate the Industrial Exhibition Association of Toronto."

Cap. 82.—"An Act to give further powers to the Petrolia Crude Oil and Tanking Company."

Cap. 83.—"An Act respecting the Brockville Mutual Building Society."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 84.—"An Act to incorporate the Prudential Life Assurance Company of Ontario."

Doubts have been raised by the Superintendent of Insurance as to the power of a Provincial Legislature to incorporate a life insurance company. Questions as to the Legislative control over fire insurance generally, are now before the Supreme Court for decision, in two cases brought by appeal from the Court of Appeal. It is possible that the judgment in these two cases may throw some light upon Legislative authority respecting life insurance.

The inclination of my opinion is, that a Provincial Legislature has power to pass such an Act as the one now referred to. Similar legislation has already been left to its operation. And I recommend that the power of disallowance be not exercised with respect to this Act.

Cap. 85.—"An Act to extend the powers of the Hand-in-Hand Mutual Fire Insurance Company."

Cap. 86.—"An Act to further amend the Acts incorporating the Hamilton Gas Light Company."

Cap. 87.—"An Act to amend the Acts respecting the Consumers' Gas Company of Toronto."

Cap. 88.—"An Act respecting the Public Burying Ground in the Town of Guelph."

Cap. 89.—"An Act respecting the Victoria College at Cobourg."

Cap. 90.—"An Act relating to the Toronto General Hospital."

Cap. 91.—"An Act to amend the Act incorporating the St. Joseph Union Society, of the City of Ottawa."

Cap. 92.—"An Act to amend an Act to authorize the Churchwardens of St. James' Church, Toronto, to issue debentures."

Cap. 93.—"An Act to authorize the sale of certain lands in the Village of London East, heretofore known as the Methodist Cemetery."

Cap. 94.—"An Act respecting the property of the Congregation of St. Mary's Roman Catholic Church, Almonte."

Cap. 95.—"An Act to empower the Trustees, under a deed executed by Thomas Keendu, to sell certain lands."

These Acts do not seem to call for the exercise of the power of disallowance. I recommend that they be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD, M. J.

COPY of a *Report of a Committee of the Privy Council, approved by His Excellency the Governor General in Council on the 12th March*, 1880.

On a Report dated 12th of January, 1880, from the Hon. the Minister of Justice, with respect to the Statutes passed by the Legislature of the Province of Ontario in the month of March, 1879.

The Committee advise that the Acts recommended in said Report be left to their operation, and that the several recommendations therein submitted, be approved and acted on.

Certified.

(Signed) J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th January, 1880.

I have the honor to report that an Act was passed by the Legislature of the Province of Ontario at its last Session, intituled:

Cap. 19.—"An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario."

This Act is apparently based upon the assumption that the conclusion come to by the Right Hon. Sir Edward Thornton, the Hon. Sir Francis Hincks, and the late Chief Justice Harrison, respecting the northerly and westerly boundaries of Ontario, settles such boundaries. I would call attention however, to the fact, that, as the Parliament of Canada have not yet legislated upon the subject, the question of the boundaries still remains, as a matter of law, unsettled. If the Parliament of Canada think proper to pass the necessary Act declaring the boundaries to be those decided upon by the gentlemen referred to, the Act under consideration would not, in this point of view, be objectionable.

I append a memorandum (marked "A") prepared by the Deputy of the Minister of the Interior, respecting the provisional boundary agreed upon by the Governments of Canada and Ontario in the year 1874, together with a plan showing the territory included in the descriptions in sections 1, 2, 3 and 8 of the Act now under consideration.

I submit, for the consideration of Council, the question whether, pending action by the Parliament of Canada with respect to the boundaries of Ontario, this Act should be left to its operation. It was received by this Government on the 26th day of March, 1879, so that the year within which the power of disallowance must be exercised will expire on the 25th March, 1880. Assuming that it is concluded not to disallow the Act in connection with the boundary question, there are questions arising upon it, which require serious consideration.

The 96th section of the B. N. A. Act, 1867, provides that the Governor General shall appoint the Judges of the Superior, District and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick; and by the 100th section the salaries, allowances and pensions of the Judges of the Supreme, District and County Courts, &c., are to be fixed and provided by the Parliament of Canada.

By the 92nd section the Provincial Legislatures are empowered to make laws for the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts.

Several of the Provinces of Canada have, since Confederation, provided for the appointment of Officers called Magistrates, Stipendiary Magistrates, Commissioners, &c., and have given to those Officers certain judicial functions. Till lately their powers have been confined to matters, in which small amounts only have been in dispute, ranging from $100 and less.

In 1877 the Legislature of British Columbia passed a Bill respecting the Gold Commissioner's Court in that Province. This Bill gave to the Gold Commissioner, who was a local officer, appointed by the Lieutenant-Governor, very extended jurisdiction in civil matters. It was reserved for the signification of the pleasure of His

Excellency the Governor General thereon. It was not assented to. I append an extract (marked "B") from the approved Report to Council from this Department upon the Bill.

In 1877 an Act was passed by the Province of Ontario, intituled: "An Act respecting the Territorial and Temporary Judicial Districts of the Province, and the Provisional County of Haliburton."

This Act gave to Stipendiary Magistrates referred to therein, and to the Division Court of the District of Algoma certain extended jurisdiction.

The Act was left to its operation, but not without the attention of Council being called to its provisions. I append an extract (marked "C") from the approved Report of this Department to Council respecting the same. The Act now under consideration goes a step further, and practically provides for the whole administration of civil justice for some time to come, within the territory referred to in the Act, by a Court, the Judge of which is appointed by the Lieutenant-Governor, and the salary and allowance of whom, are fixed by the Provincial Legislature.

The 6th section gives to this Court in the District of Algoma the following jurisdiction:—

(1.) In all personal actions where the amount claimed does not exceed four hundred dollars.

(2.) In all actions and suits relating to debt, covenant and contract, where the amount or balance claimed does not exceed eight hundred dollars. Provided always, as to the additional jurisdiction so hereby conferred, that the contract was made within Algoma, or the cause of action arose therein, or the defendant resides therein.

(3.) For the recovery of the possession of real estate in the said District.

(4.) In replevin, where the value of the goods or other property or effects distrained, taken or detained, does exceed the sum of four hundred dollars, and the goods property or effects to be replevied, are in the said district.

Previous to the Act, its jurisdiction was confined to personal action, where the debt or damages claimed did not exceed $100 (see Revised Statutes of Ontario, Cap. 90, sec. 16), except by consent of the parties, when the Stipendiary Magistrate could, on their written consent, try cases to the extent of $800.

Section 8 gives to the Stipendiary Magistrate holding Courts in certain remote Districts therein mentioned, the following jurisdiction:—

(1.) In all personal actions, where the amount claimed does not exceed one hundred dollars (except as in the next section excepted).

(2.) In all causes and suits relating to debt, contract and covenant, where the amount or balance claimed does not exceed two hundred dollars, or if the amount is ascertained by the signature of the defendant, to the sum of four hundred dollars.

Provided always, that the contract or covenant was made within the said portion of the district of Thunder Bay or Nipissing in which the Court is held, or the cause of action arose therein, or the defendant resides therein.

(3.) In certain action for recovery of the possession of lands or other corporeal hereditaments situated in the said portion of the District aforesaid, in which the Court is held, and the yearly value of which lands or hereditaments, or the rent payable in respect whereof does not exceed one hundred dollars, that is to say:

(*a*) Where the term and interest of the tenant of any such corporeal hereditament has expired, or has been determined by the landlord or the tenant, by a legal notice to quit;

(*b*) Where the rent of any such corporeal hereditament is sixty days in arrear, and the landlord has the right, by law, to re-enter for non-payment thereof;

And in respect to such actions the said Courts shall have and exercise the same powers, as belong to, and as may be exercised by the Superior Courts of Common Law in, and in respect to actions of ejectment.

(4.) In replevin, where it is made to appear that the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of one hundred dollars, and the goods, property or effects to be replevied, are in the said portion of the District in which the Court is held.

Section 10 provides for the appointment of an Officer for the District of Algoma, to be called the Deputy Clerk for Thunder Bay, and power is given to him to issue writs for the commencement in the District of Thunder Bay, of actions in the District Court.

Provision is made for a seal for the Court, with which all the writs and process are to be sealed. An appeal is given from the Stipendiary Magistrate's order or decision, to the Judge at Sault Ste. Marie.

The 14th section is as follows :—

"14. Where the amount claimed in any action in the said District Court, or where, in the case of ejectment or replevin, the subject matter of the action, as appearing in the writ in ejectment, or in the affidavit filed to obtain the writ in replevin, is beyond the jurisdiction of the County Courts in other parts of Ontario, costs to a successful defendant shall be taxed upon the Superior Court scale.

"(2.) In like manner, where the Plaintiff recovers in respect to a cause of action beyond the jurisdiction of the said County Courts, costs shall be taxed to him on the Superior Court scale, subject, however, to his obtaining the certificate or order of the Judge where, under the Common Law Procedure Act, such certificate or order is required in the Superior Courts.

"(3.) In respect to any action within the jurisdiction of the first part of this section the Attorney of a successful Plaintiff shall be entitled to charge his client County Court costs only, unless he was instructed in writing by such client to sue in respect to a matter beyond the jurisdiction of the said County Courts, in which case the said Attorney shall be entitled to charge costs upon the Superior Court scale.

"(4.) Either party may, as of right, upon giving twenty days' notice to the opposite party, have the taxation of costs by the Deputy Clerk, revised by the Clerk at Sault Ste. Marie."

The 15th section provides for the appointment of a Sheriff of the District of Thunder Bay, and for the execution by him, of writs and other process issuing out of the District Court.

The 16th section empowers the Stipendiary Magistrate, upon the trial of any cause where the amount claimed is over $200, or where the matters in dispute relate to the title of real estate, to state a special case for the opinion of the Court of Appeal in Ontario.

The 18th and 19th sections are as follow :—

"18. Every judgment of the said Division Courts may be enforced by writs or other process, framed in accordance with the requirements of the case, and similar in form to writs or other process for like purposes issued out of the Superior Courts.

"19. Every Stipendiary Magistrate of the District of Thunder Bay or Nipissing, may exercise the authority conferred upon County Court Judges by the Revised Statute respecting overholding tenants."

The Legislature unquestionably has authority to constitute a Court, possessing the jurisdiction of the Courts referred to in this Act, but I submit to Council whether this Act, which seems to encroach upon the powers of the Dominion Government with respect to the appointment of Judges, and which goes far beyond any previous Act of a similar character, should be disallowed, notwithstanding that the other Acts, equally objectionable on principle, but less objectionable in degree, have been left to their operation. In my opinion the Act should be disallowed, unless the same be repealed within the time for disallowance.

JAMES McDONALD,
Minister of Justice.

A.

DEPARTMENT OF THE INTERIOR, OTTAWA, 21st January, 1880.

Memorandum.

The undersigned has the honor to submit, for the information of the Honorable the Minister of Justice, that on the 8th July, 1874, an Order in Council was passed agreeing upon a conventional boundary between the Province of Ontario and the Dominion, in the following terms:—

1. That the conventional boundary of the Province of Ontario, for the purposes set forth in the said Order in Council of the 3rd of June instant, shall be on the west of the meridian line passing through the most easterly point of Hunter's Island, running south until it meets the boundary line between the United States and Canada, and north until it intercepts the fifty-first parallel of latitude, and the said fifty-first parallel of latitude shall be the conventional boundary of the Province of Ontario on the north.

2. That all Patents for lands in the disputed territory, to the east and south of the said conventional boundaries, until the true boundaries can be adjusted, shall be issued by the Government of Ontario; and all Patents for lands on the west or north of these conventional boundaries, shall be issued by the Dominion Government.

3. That when the true west and north boundaries of Ontario shall have been definitely adjusted, each of the respective Governments shall confirm and ratify such Patents as may have been issued by the other for lands then ascertained not to be within the territory of the Government which granted them, and each of the respective Governments shall also account for the proceeds of such lands as the true boundaries, when determined, may show to belong of right to the other.

4. That the Government of the Dominion shall transfer to the Government of the Province of Ontario all applications for lands lying to the east and south of the conventional boundaries, and also all deposits paid on the same; and the Ontario Government shall transfer to the Dominion Government all applications for lands lying to the west and north of the said boundaries, and likewise all deposits paid thereon; and each of the said applications as are *bonâ fide* and in proper form shall be dealt with finally, according to the priority of the original filing; and where applications for the same lands have been filed in the Departments of both Governments, the priority shall be reckoned as if it had been filed in one and the same office.

The undersigned has further the honor to submit, for the information of the Minister of Justice, a map showing the territory included in the several descriptions in sections 1, 2, 3 and 8 of the Act of the Ontario Legislature, passed at the last Session thereof, Cap. 19.

Respectfully submitted.

J. S. DENNIS,

Deputy of the Minister of the Interior.

The Honorable the Minister of Justice.

B.

"In addition to the above Acts of the Legislature of British Columbia, a Bill was passed, intituled: 'An Act to amend the Gold Mining Amendment Act, 1872,' which Bill was reserved by His Honor the Lieutenant-Governor, for signification of the pleasure of His Excellency the Governor General thereon. The Act is as follows:—

"Every Mining Court in this Province shall, in addition to its present jurisdiction, have jurisdiction in all personal actions arising within the limits of its District, and the

Gold Commissioner presiding in any such Court shall have the like powers to enforce any judgment, decree, rule or order of such Court, as are conferred by section 12 of the Gold Mining Amendment Act, 1872. The provisions of this Act shall only have effect in the Electoral District of Kootenay, and in that part of the Province known as Cassiar."

The Attorney General for the Province reported on this Act to the Lieutenant-Governor as follows:—

"This Act gives jurisdiction in all personal actions to the Gold Commissioners in Kootenay and Cassiar, and appears to trench upon the provisions of the 96th section of the British North America Act, which vests the appointment of the Supreme and County Court Judges in the Governor General alone, inasmuch as it provides that the paid employés of the Local Government in the District aforesaid, shall have and exercise almost as much power as a Supreme or County Court Judge. As I think this Legislature has not the power, in effect, to make these appointments, I would suggest that the Act be reserved for the consideration of His Excellency the Governor General."

I refer to the remarks made upon the Mining Court in connection with the 11th section of Act No. 14. This Bill is an illustration of the danger I have above alluded to, as, if it became law, the jurisdiction of the Mining Court in the Districts referred to, will be greater than the jurisdiction of the County Court, and equal to that of the Supreme Court. It might be convenient that a somewhat extended jurisdiction should be given to a District Court or Magistrate in the Districts of Kootenay and Cassiar, thereby avoiding the expense and delay attendant upon a Judge of the Supreme Court travelling to these distant parts of the Province, for the purpose of holding Assize, and it is probable that this Bill was passed with that object in view. I would mention, however, that even were this Bill assented to, it would be necessary for a Supreme Court Judge to proceed to the District mentioned for the trial of criminal cases. Upon the whole, I recommend that the assent of the Governor General be not given to this Bill, which in fact should have been disposed of by the Local Authorities themselves.

The following are the remarks above alluded to:—

"The section of the Act now under consideration further extends the powers of the Gold Commissioner as Judge of the Mining Court. The 96th section of the British North America Act, 1867, empowers the Governor General to appoint the Judges of the Superior, District and County Courts in each Province, except those of the Court of Probate in Nova Scotia and New Brunswick.

"By the 92nd section the Provincial Legislatures have power to make laws in relation to the administration of justice, including the constitution, maintenance and organization of Provincial Courts both of civil and criminal jurisdiction. They have also power to legislate respecting the establishment and tenure of Provincial Offices, and the appointment and payment of Provincial Officers."

"If there be power in the Legislature of British Columbia to establish this so-called Mining Court, and appoint and pay the Judges thereof, it must be found in the section I have just quoted. I think, however, that this Court, which is declared to have original jurisdiction, to be a Court of Law and Equity, and a Court of Record with a specific seal, and for the purpose of enforcing its judgments, orders and decrees, to have (with certain exceptions) the same powers and authority, legally and equitably, as are exercised in the Supreme Court of Civil Justice of British Columbia, by any Judge thereof, which has power also to summons a jury to assess damages, may be considered a Court, within the meaning of the 96th section of the Confederation Act."

"It is not, in my opinion, necessary to bring a Provincial Court within the provisions of this section, that it should be called by the particular name of Superior, District, or County Court."

"The exception to that section itself indicates, that the Courts of Probate in Nova Scotia and New Brunswick would, unless specially excepted, have come within the definition of Superior, District or County Courts."

"It will be readily seen how easy it would be for the Local Legislature, by gradually extending the jurisdiction of those Mining Courts, and by curtailing the jurisdiction of the County Courts, or Supreme Courts as now established, to bring within their own reach, not only the administration of justice in the Province, but also practically the appointment of the Judges of the Courts in which Justice is administered."

Inasmuch, however, as Legislation of a similar nature to that contained in the section now under consideration, has been left to its operation in previous years, and as the provisions of the section appear to be convenient, I do not recommend a disallowance of the Act.

C.

"Were this the first enactment of a similar nature passed by a Provincial Legislature, I would hesitate long before recommending that it should be left to its operation, as it appears to entrench upon the powers conferred upon the Governor General of Canada, by the 96th section of the British North America Act, 1867, which section is as follows:—

"The Governor General shall appoint the Judges of the Superior, District and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick."

Inasmuch, however, as Provincial Legislation has been previously left to its operation, whereb ycertain judicial powers in civil matters have been conferred upon Stipendiary Magistrates, and whereby Courts presided over by the Stipendiary Magistrates, and, having in effect the powers of the Division Courts of Ontario, have been constituted, I do not feel at liberty to object to the provisions of the present Act, provided the jurisdiction possessed by the former Legislation upon the subject, which has been left to its operation, has not in effect been substantially extended.

In a Report dated 29th September last, upon the Acts of last Session of the Legislature of British Columbia, I had occasion to remark at some length upon Legislation of a nature similar to that now under consideration, and I then pointed out the danger which might ensue from this class of Legislation.

I refer to that Report. The Act 31st Vic., 1868, Ontario, Cap. 35, which was passed to provide for the organization of the Territorial District of Muskoka, and under which the Stipendiary Magistrate of that District was appointed, declared that certain provisions of cap. 128 of the Consolidated Statutes of Upper Canada, intituled: "An Act respecting the Administration of Justice in unorganized tracts," should extend and apply to said district of Muskoka. Similar provisions are contained in the Act 33rd Vic. (1869) Ontario, Cap. 24, which provides for the organization of the Territorial District of Parry Sound, and in the Act 34 Victoria, Ontario (1871) Cap. 4, which provides for the organization of the Territorial District of Thunder Bay. The provisions of the Act of the Consolidated Statutes thus made applicable to these Territorial Districts in effect, providing for the holding of a Court of Civil Jurisdiction in each District under the name and style of the first (or other, as the case may be) Division Court for the District of, &c., over which the Stipendiary Magistrate should preside, and be the sole Judge in all actions brought in such Division Court, and determine all questions as well of fact as of law, in relation thereto, in a summary manner, with power, should he think fit, to summon a jury of five persons to try the fact controverted in a case.

For every such Court, provision is made for an appointment of a Clerk and one or more Bailiffs. The jurisdiction of the Court is declared to be over all personal actions, save certain excepted ones, where the debtor's damages claimed are not more than $100. Each Court is to have a seal, with which all summonses and other processes shall be sealed or stamped.

Suits are to be commenced by summons to the defendant, issued by the Clerk, containing the particulars of the plaintiff's demand.

Provision is made for the subpœnaing of witnesses. That the judgment of the Court, with certain exceptions, be final and conclusive. Provisions are made for the enforcement of the judgments by execution. Proceedings and suits against absconding debtors are provided for.

The Magistrate is given jurisdiction, on the consent of the parties, to try and determine cases up to $800 in amount.

In addition to the Act in the Consolidated Statues above referred to, which has been made applicable to the three Districts mentioned, certain provisions of the Act respecting Division Courts, being Cap. 19 of the Consolidated Statutes of Upper Canada, and of the Act to amend the Acts respecting Division Courts, being Cap. 23 of 32 Victoria (1868–69), Ontario, are made applicable to the district of Parry Sound and Thunder Bay. The provisions of the Act respecting Division Courts referred to, relate to the examination of judgment debtors, and claims of landlords to goods seized in execution.

The provisions of the Act 32 Victoria (1868–69), Ontario, amending the Acts respecting Division Courts, provide that all judgments in the Division Courts shall have, and continue to have, the same force and effect as Judgments of Courts of Record.

Provisions are made for the entry of final judgments by the Clerk when the claim is not disputed, and proceedings for the garnishment of debts are provided for.

It will be thus seen that the jurisdiction of the Courts presided over by the Stipendiary Magistrates of the three Districts above mentioned was, before the passing of the Act now under consideration, practically as extensive as the jurisdiction of the various Division Courts in the Province, and in some cases was more extensive. The present Act does not, therefore, seem to extend to any substantial extent, the jurisdiction previously possessed by those Courts.

The section now under consideration, however, not only declares that the Stipendiary Magistrate as Division Court Judge shall have the like jurisdiction and powers as are now possessed by the County Court Judges in Division Courts in Counties, but goes on to provide that the provisions of law, from time to time, in force in Ontario relating to the Division Courts in Counties and the Officers thereof, &c., shall apply the Division Courts of these Districts.

This provision is, I think, objectionable, inasmuch as, although it may be quite within the Legislative authority of Ontario to increase the jurisdiction of the Division Courts in Counties as such Courts are now presided over by Judges appointed by the Dominion, yet their jurisdiction might be increased to an extent that might be objectionable in the case of these District Division Courts, the Judges of which are appointed by Ontario. Were the section limited in its operation to the jurisdiction and power, &c., of the County Court Judges in Division Courts in Counties, as now existing, I would not, for the reasons above mentioned, recommend any interference with the Act.

I recommend, however, that the attention of the Lieutenant-Governor be called to the objection referred to, with a request that his Government may promote at the next Session, and before the time expires for determining as to the disallowance of the Act, amendatory legislation.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 12*th February*, 1880.

The Committee have had under consideration a Report dated 20th January, 1880, from the Honorable the Minister of Justice, upon an Act passed by the Legislature of the Province of Ontario, at its last Session, Chapter 19, intituled: "An Act respecting the Administration of Justice in the Northerly and Westerly parts of Ontario."

In concluding his Report the Minister submits whether this Act, which seems to encroach upon the powers of the Dominion Government with respect to the appointment of Judges, and which goes far beyond any previous Act of a similar character, should be disallowed, notwithstanding that other Acts equally objectionable on prin

ciple, but less objectionable in degree, have been left to their operation, and he states that, in his opinion, the Act should be disallowed, unless the same be repealed within the time for disallowance.

The Committee concur in the opinion above stated, and submit the same for for Your Excellency's approval.

Certified.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd February, 1880.

I have the honor to report upon the Act passed by the Legislature of Ontario, at it last Session, namely:—

Cap. 50.—"An Act respecting certain dams on Beaver Creek and other streams in the counties of Hastings and Addington."

Enquiry has been made from the Department of Marine and Fisheries, asking if any objection to the Act exists in connection with navigation, and a reply has been received, that no objection exists to the allowance of the Act, so far as navigation is concerned. I recommend that the Act be left to its operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur,

JAS. McDONALD, Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th February,* 1880.

On a Report, dated 3rd February, 1880, from the Hon. the Minister of Justice, upon the Act passed by the Legislature of Ontario, at its last Session, namely:

Cap. 50.—"An Act respecting certain Dams on Beaver Creek and other streams in the Counties of Hastings and Addington," stating that enquiry has been made from the Department of Marine and Fisheries, asking if any objection to the Act exists in connection with navigation, and that a reply has been received, that no objection exists to allowance of the Act, so far as navigation is concerned.

The Minister recommends that the Act be left to its operation.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th March, 1880.

I have the honor to report:—That under the Order in Council of the 12th February, respecting an Act passed by the Legislature of Ontario at its Session, 1879,

intituled: "An Act respecting the administration of justice in the northerly and westerly parts of Ontario," it was provided, that unless the same were repealed within the time for disallowance, it should be disallowed.

A copy of my Report and of the Order in Council passed thereon, were transmitted in due course to the Ontario Government. A reply has just now been received, from which it would appear that the Act has not been repealed, but that another Act, making provision for the administration of justice in the locality, has been passed, but which Act is not to go into operation unless, and until, the Act now under consideration, be disallowed.

The Attorney-General of Ontario states that "the new Act confines the jurisdiction of Stipendiary Magistrates, as regards subject-matter and amount, to the limits provided for, by the law in force before Confederation; and avoids any disputable reference to the extent of the territory within which the Act is to operate, leaving that question to be wholly determined as may be, by the law and the right."

I have not yet had an opportunity of seeing this Act, and therefore pass no opinion with respect to it. It will have to be considered and reported upon in the usual way.

Pursuant to the provisions of the Order in Council of the 12th February, I think the Act passed by the Legislature of the Province of Ontario, first above referred to, should be disallowed, and I recommend accordingly.

Before closing the Report, I desire to refer to some of the remarks of the Attorney-General of Ontario with respect to the Act.

In my previous Report I pointed out two grounds upon which it was necessary to take action with respect to the allowance or disallowance—the first being on account of its assuming to make provision for the administration of justice over territory, the right of Ontario to which, is not admitted by this Government—the second was, that the Act encroached upon the powers of the Dominion Government with respect to the appointment of Judges.

It is unnecessary to reply to the arguments adduced by the Attorney-General, with respect to the boundaries of Ontario, as any discussion thereon, upon a reference of this kind, would seem inopportune.

With respect to the second ground, however, the Attorney-General points out that the provisions respecting the "District Court" referred to in the Act, were intended to apply only to the Court presided over by the Judge resident in Sault Ste. Marie, who received his appointment before Confederation, and whose successor would have to be appointed by the Governor General, and that the provisions respecting this Court do not apply to the Court presided over by the Stipendiary Magistrate referred to in the Act.

In this view, so much of the Act as relates to that District Court would not seem to be open to the objections, as those portions which refer to the Stipendiary Magistrates, but the objections pointed out in my previous Report to those portions of the Act which refer to the Stipendiary Magistrates and the Courts presided over by them still remain, and of themselves, in my opinion, would warrant the disallowance of the Act.

The Attorney-General remarks, in referring to the disputed boundary question, that "the Minister of Justice does not, however, advise the disallowance of the Act on this account, but advises its disallowance upon the ground of the other objection which he suggests, namely: that the Act seems to encroach upon the powers of the Dominion Government with respect to the appointment of Judges."

It would seem immaterial upon which of the two grounds the disallowance was recommended, but I would point out that the recommendation in my Report was a general one, and not confined to either ground.

JAS. McDONALD,
Minister of Justice.

Copy of Proclamation disallowing the above mentioned Act.

GOVERNMENT HOUSE, OTTAWA, Monday, 22nd day of March, 1880.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province, did, on the 11th day of March, 1879, pass an Act, Chapter 19, intituted: "An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario."

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature of the Province of Ontario to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General:

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

J. O. COTÉ,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of Ontario, the 11th day of March, 1879, Chapter 19, intituled: "An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario," was received by me on the 26th day of March, 1879.

Given under my hand and seal this twenty-second day of March, 1880.

[L.S.] LORNE.

The Secretary of State to Lieutenant-Governor of Ontario.

OTTAWA, 22nd March, 1880.

SIR,—I have the honor to transmit to you herewith, for the information of your Government, an Order of His Excellency the Governor General in Council, disallowing an Act passed by the Legislature of the Province of Ontario on the 11th day of March, 1879, Chapter 19, intituled: "An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario."

I have, &c.,

J. C. AIKINS,
Secretary of State.

To His Honor
The Lieutenant-Governor of Ontario.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 25th March, 1880.

SIR,—Adverting to your letter of 22nd March, forwarding an Order of His Excellency the Governor General in Council, disallowing an Act passed by the Legislature of this Province on the 11th instant, intituled: "An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario," I have now the honor to request you to forward to me a copy of the Report of the Minister of Justice therein alluded to.

I have, &c.,

D. A. MACDONALD,
Lieutenant-Governor of Ontario.

The Honorable
The Secretary of State (Canada).

I think this request should be complied with, and so recommend.

Z. A. LASH,
Deputy Minister of Justice.

27th March, 1880.

Secretary of State to Lieutenant-Governor of Ontario.

OTTAWA, 30th March, 1880.

SIR,—In compliance with the request contained in your Despatch of the 25th inst., I have the honor to transmit to you herewith a copy of the Report of the Hon. the Minister of Justice, upon which the Order of His Excellency the Governor General, of the 22nd inst., disallowing the Act of the Legislature of the Province of Ontario, intituled: "An Act respecting the Administration of Justice in the northerly and westerly parts of Ontario," was passed.

I have, &c.,

J. C. AIKINS,
Secretary of State.

To His Honor
The Lieutenant-Governor of Ontario.

ONTARIO, 43RD VICTORIA, 1880.

1ST SESSION—4TH PARLIAMENT.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 17th March, 1880.

SIR,—I have the honor to transmit herewith, for the information and approval of His Excellency the Governor General, certified copies of the Acts passed by the Legislature of this Province at its recent Session, being in the Forty-third year of Her Majesty's reign.

I have, &c.,

D. A. MACDONALD,
Lieutenant-Governor of Ontario.

The Honorable,
The Secretary of State (Canada).

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd February, 1881.

I have the honor to report upon the Statutes passed by the Legislature of the Province of Ontario, in the year 1880, as follows :—

Cap. 1.—" An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty, and for other purposes therein mentioned."

Cap. 2.—" An Act to provide for the erection of New Buildings for the accommodation of the Provincial Legislature and the Public Departments."

Cap. 3.—" An Act respecting Public Officers of Ontario."

Cap. 4.—" An Act to amend the Free Grants and Homesteads Act."

Cap. 5.—" An Act to amend the Agricultural and Arts Act."

Cap. 6.—" An Act respecting Tile, Stone or Timber Drainage."

Cap. 7.—" An Act respecting the proof of proceedings in Provincial and Colonial Courts."

Cap. 8.—" An Act to extend the jurisdiction, and to regulate the Officers of Dominion Courts."

Cap. 9.—" An Act further to amend the Jurors' Act."

I recommend that these Acts be left to their operation.

Cap. 10.—" An Act to abolish priority of and amongst Execution Creditors."

A separate Report will be made with respect to this Act.

Cap. 11.—" An Act respecting Coroners' Inquest."

Cap. 12.—" An Act respecting the administration of justice in the Districts of Algoma, Thunder Bay and Nipissing."

Cap. 13.—" An Act respecting the Niagara Falls and the adjacent territory."

Cap. 14.—" An Act to amend certain particulars in the Law of real property."

Cap. 15.—" An Act to amend the Revised Statute respecting Mortgages and Sales of Personal Property."

Cap. 16.—" An Act to protect the goods of Lodgers and Boarders against distresses for rent due to the Superior Landlord."

Cap. 17.—" An Act to amend the Act respecting Land Surveyors and the survey of Lands."

Cap. 18.—" An Act to extend the powers of Joint Stock Companies for the erection of Exhibition Buildings."

Cap. 19.—" An Act respecting Companies incorporated under Imperial Statutes."

Cap. 20.—" An Act respecting the Expenses of inspecting Insurance Companies."

Cap. 21.—" An Act for the relief of Building, Loan and Savings Societies and Companies."

Cap. 22.—" An Act for the relief of Co-operative Associations."

Cap. 23.—" An Act respecting the incorporation of Cemetery Companies by Letters Patent."

Cap. 24.—" An Act to amend the Municipal Act."

Cap. 25.—" An Act to make valid certain Municipal by-laws."

Cap. 26.—" An Act respecting the support of destitute insane persons."

Cap. 27.—" An Act respecting Municipal assessments and exemptions."

Cap. 28.—" An Act respecting the collection of taxes in the Districts of Algoma, Muskoka, Parry Sound, Nipissing and Thunder Bay."

Cap. 29.—" An Act to prevent the spreading of Canada thistles."

Cap. 30.—" An Act respecting ditching water courses."

Cap. 31.—" An Act to amend the law for the protection of game and fur-bearing animals."

Cap. 32.—" An Act respecting certain amendments to the Public Schools Act."

Cap. 33.—" An Act respecting the Agricultural College."

Cap. 34.—" An Act respecting the Ontario Reformatory for boys."

Cap. 35.—" An Act respecting the removal of persons from County Gaols to Provincial Institutions."

Cap. 36.—" An Act to make further provision respecting the estates of persons confined in Asylums for the insane."

Cap. 37.—" An Act to confirm certain preliminary proceedings, and make further provision for the formation of the County of Dufferin."

Cap. 38.—" An Act to legalize by-law No. 310 of the City of Brantford."

Cap. 39.—" An Act relating to the incorporation of the Village of Chesley."

Cap. 40.—" An Act respecting the debenture debt of the City of Guelph."

Cap. 41.—" An Act to provide for the division of the Township of Luther."

Cap. 42.—" An Act to confirm a certain by-law of the Town of Owen Sound "

Cap. 43.—" An Act to legalize certain by-laws of the Town of Orillia and of the County of Simcoe."

Cap. 44.—" An Act to confirm a by-law of the County of Prince Edward, granting aid to the Prince Edward County Railway Company."

Cap. 45.—" An Act to confirm certain assessments in the City of St. Catherines."

Cap. 46.—" An Act to incorporate the Village of Wiarton."

Cap. 47.—" An Act respecting Waterworks for the Town of Wingham."

Cap. 48.—" An Act to amend and more accurately define the boundaries of the Town of Woodstock."

Cap. 49.—" An Act to incorporate the Bayfield and South Huron Railway Company."

Cap. 50.—" An Act respecting the construction of a branch of the Belleville and North Hastings Railway to the Village of Tweed."

Cap. 51.—" An Act to incorporate the Cobden and Opeongo Railway Company."

Cap. 52.—" An Act to amend the Acts relating to the Credit Valley Railway Company."

Cap. 53.—"An Act to amend an Act respecting the Georgian Bay and Wellington Railway Company."

Cap. 54.—"An Act respecting the Grand Junction Railway Company."

Cap. 55.—"An Act to incorporate the Grand Ontario Central Railway Company."

Cap. 56.—"An Act to revise and amend the Act incorporating the Lambton Central Railway Company."

Cap. 57.—"An Act respecting the Midland Railway of Canada."

Cap. 58.—"An Act to amend the Acts incorporating the North Simcoe Railway Company."

Cap. 59.—"An Act to incorporate the Port Rowan and Lake Shore Railway Company."

Cap. 60.—"An Act to revive and amend the Act incorporating the Port Stanley, Strathroy and Port Franks Railway Company."

Cap. 61.—"An Act to amend the Acts respecting the Prince Edward County Railway Company."

Cap. 62.—"An Act to revive and amend the Act incorporating the St. Mary's and Credit Valley Railway Company."

Cap. 63.—"An Act to incorporate the Sarnia and Petrolia Railway Company."

Cap. 64.—"An Act to incorporate the Sault Ste. Marie Railway Company."

Cap. 65.—"An Act respecting the Stratford and Huron, and the Port Dover and Lake Huron Railway Companies."

Cap. 66.—"An Act to amend the several Acts relating to the Toronto, Grey and Bruce Railway."

Cap. 67.—"An Act to incorporate the Toronto and Nipissing Eastern Extension Railway Company."

Cap. 68.—"An Act respecting the Toronto and Ottawa Railway Company."

Cap. 69.—"An Act further to amend the Act incorporating the Trent Valley Railway Company."

Cap. 70.—"An Act to extend the time for completing the Victoria Railway."

Cap. 71.—"An Act to incorporate the Victoria Extension Railway Company."

Cap. 72.—"An Act to amend the Act incorporating the Windsor and Essex Centre Railway Company."

Cap. 73.—"An Act to incorporate the Floss Tramway Company."

Cap. 74.—"An Act to incorporate the Southern Fire Insurance Company."

Cap. 75.—"An Act to provide for the amalgamation of the City Gas Company and the City Steam Heating Company, of London, Ontario, and to extend the powers of the amalgamated Companies."

Cap. 76.—"An Act to limit the borrowing powers of the English Loan Company and to amend the Charter thereof."

Cap. 77.—"An Act relating to Christ Church, Ottawa."

Cap. 78.—"An Act to enable the Trustees of St. Andrew's Church, Chatham, to raise ten thousand dollars to build a Church, and for other purposes."

Cap. 79.—"An Act to authorise the Trustees of the Presbyterian Congregation of Lobo, known as Melville Church, to sell certain lands."

Cap. 80.—"An Act to authorize the Rector and Churchwardens of St. Paul's Church, in the City of London, to lease, mortgage, or sell certain lands heretofore known as 'Saint Paul's Cemetery' and for other purposes."

Cap. 81.—"An Act to amend the Act incorporating Alma College."

Cap. 82.—"An Act respecting the Sisters of Saint Joseph, of the Roman Catholic Diocese of Hamilton."

Cap. 83.—"An Act to amend the Act incorporating the William Hall, Peterborough, Protestant Poor Trust."

I recommend that these Acts be left to their operation.

JAMES McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 14*th February*, 1881.

On a Report, dated 3rd February, 1881, from the Honorable the Minister of Justice, upon the Statutes passed by the Legislature of the Province of Ontario, in the year 1880, consisting of Chapters 1 to 83 inclusive;

The Minister recommends that these Acts be left to their operation, with the exception of Cap. 10: "An Act to abolish priority of and amongst execution creditors," with respect to which the Minister states that a separate Report will be made.

The Committee submit the above recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th March, 1881.

I have the honor to report upon Chapter 10 of the Statutes of Ontario, passed in the Forty-third year of Her Majesty's reign, A.D. 1880, intituled: "An Act to abolish priority of and amongst creditors."

Taking this Act section by section, much can be said in favor of the view that its provisions are within the Legislative authority of the Provincial Legislature, but, taking its effect as a whole, much can be said in support of the contention that it entrenches upon the subject of bankruptcy and insolvency, over which the Parliament of Canada has exclusive legislative authority.

In view of the doubts which exist with respect to the matter; in view, also, of the fact that the Insolvency laws of the Dominion have been repealed; in view, also, of the provisions of section 28 of the Act which provides that it is not intended to interfere with the Insolvency laws, which may, from time to time, be in force, but is intended to be subject to such laws, and subject, as aforesaid, to apply to all debtors whether solvent or not; in view, also, of the fact that if the power of disallowance be not exercised, any person wishing to test the constitutionality of the Act in any of the Courts, will be at liberty to do so, I recommend that the power of disallowance be not exercised with respect to the said Act.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 24*th March*, 1881.

On a Report, dated 11th March, 1881, from the Hon. Minister of Justice, upon Cap. 10 of the Statutes of Ontario, passed in the Forty-third year of Her Majesty's reign, A. D. 1880, intituled: "An Act to abolish priority of and amongst execution creditors;"

The Minister states that, taking this Act section by section, much can be said in favor of the view, that its provisions are within the Legislative authority of the Provincial Legislature, but that, taking its effect as a whole, much can be said in support of the contention that it entrenches upon the subject of bankruptcy and insolvency, over which the Parliament of Canada has exclusive legislative authority.

That, in view of the doubts which exist with respect to the matter; in view, also, of the fact that the Insolvency laws of the Dominion have been repealed; in

view, also, of the provisions of section 28 of the Act which provides that it is not intended to interfere with the Insolvency laws which may, from time to time, be in force, but is intended to be subject, as aforesaid, to apply to all debtors, whether insolvent or not; in view, also, of the fact that if the power of disallowance be not exercised, and any person wishing to test the constitutionality of the Act in any of the Courts will be at liberty to do so, he, the Minister, recommends that the power of disallowance be not exercised with respect to the said Act.

The Committee concur in the foregoing recommendation, and submit the same for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor of Ontario.

OTTAWA, 31st March, 1881.

SIR,—I have the honor to transmit to you herewith, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council, in reference to the Act of the Legislature of the Province of Ontario, Cap. 10, passed in the 43rd year of Her Majesty's reign, A. D. 1880, intituled: "An Act to abolish priority of and amongst execution creditors."

I have, &c.,

JOHN O'CONNOR,
Secretary of State.

To His Honor
The Lieut.-Governor of Ontario, Toronto.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 2nd April, 1881.

SIR,—I have the honor to acknowledge the receipt of your Despatch of 31st March, transmitting a copy of an Order of His Excellency the Governor General in Council, in reference to the Act of the Legislature of the Province of Ontario, Cap. 10, passed in the 43rd year of Her Majesty's reign, A. D. 1880, intituled: "An Act to abolish priority of and amongst execution creditors."

I have, &c.,

J. B. ROBINSON,
Lieutenant-Governor.

Hon. Secretary of State (Canada,)

ONTARIO, 44TH VICTORIA, 1881.

2ND SESSION—4TH PARLIAMENT.

CORRESPONDENCE, Petitions, Papers, Reports and Orders in Council, relating to an Act of the Legislature of the Province of Ontario (Chapter 11), intituled: "An Act for protecting the Public Interests in Rivers and Streams and Creeks," disallowed by His Excellency in Council.

Petition of Mr. Peter McLaren to Governor General.

To His Excellency the Right Honorable the MARQUIS OF LORNE, K.T., G.C.M.G., P.C., Governor General of Canada.

In Council Assembled.

The humble petition of Peter McLaren of the town of Perth, in the county of Lanark, Province of Ontario, lumber manufacturer, sheweth:—

(1.) Your petitioner is the owner of a large steam saw mill and lumber yard situated at the village of Carleton Place, in the county of Lanark, near the banks of the Mississippi River, which flows through the said village, and down which the logs required at such mill are driven during the season of navigation. Along this stream and its tributaries, your petitioner is now, and has for many years past, been engaged in extensive lumbering and timber operations, in connection with which he usually has several hundred men constantly engaged during the whole year, and in which business he has embarked a great portion of his capital.

(2.) A few miles up the river from Carleton Place the first great natural obstruction, known as "High Falls," is met with. The bed of the stream at this point, and both above and below, and on each side thereof, is vested in fee simple, absolute in your petitioner, who has expended a large sum of money in the purchase thereof from the former owners, who had spent considerable sums in clearing out the bed of the stream, and who had erected valuable improvements in the stream itself, consisting of dams and slides, and so rendered the stream at this point passable for timber and saw logs during freshets. Since your petitioner acquired the same, he made considerable expenditure thereon in maintaining and repairing the said constructions erected, and in erecting others of a similar kind.

(3.) From High Falls to the head waters of the Mississippi, which head waters are known as "Louise Creek," and are situated in the township of Denbigh, in the county of Lennox and Addington, a distance of about fifty miles on said stream, on the South Branch of the Mississippi, and on Swamp Creek and Buckshot Creek, which are streams tributary to the Mississippi, which extend over a distance of more than 100 miles, your petitioner has, by his own private expenditure, established a vast and complete system of water communication, by means of which he is enabled each year to float his logs down to the mill at Carleton Place and his timber to the Ottawa River.

(4.) The work of improving the said streams, so as to establish such system of water communication, was commenced above the High Falls nearly thirty years ago, and has been going on from time to time up to the present.

(5.) Your petitioner has at various times purchased, along the streams, upwards of 50 separate tracts of land, which were, and are of little or no use whatever, except for the construction of improvements thereon, for the purpose of rendering the

streams navigable, such tracts of land covering the bed, and both sides of the stream at particular points. The work of improving consists generally of clearing out stones, deepening channels, blasting rocks, widening narrow places, erecting piers, side dams, reserving dams, slides and canals; but the greatest portion of the expenditure was incurred in the erection of dams and slides, to overcome the natural obstructions of rapids and falls.

(6.) Your petitioner has expended in the purchase of land on which to construct such improvements, in the purchase of improvements already made, and in those which he has himself constructed, upwards of a quarter of a million of dollars.

(7.) Although it is true that, along the said stream and its tributaries, there are stretches of water which, without improvements, were capable of floating logs and timber, yet along almost the whole course of the main stream, and the aforesaid tributaries, the falls and rapids are so numerous and obstructive, as to render such streams useless for floating purposes, without the means afforded by such system of improvements.

(8.) For a great many years your petitioner has had complete and sole control of the said system of improvements, and his right to such control was, on all hands, conceded by settlers and lumbermen, in the section of the Province through which streams flow. Having such complete and sole control, your petitioner was enabled so to use the said system, as to float down annually from the head waters of all the said streams, immense quantities of timber and saw logs, which could not have been brought down the same, without the aid of the artificial means above referred to.

(9.) The great bulk of the timber along those streams is now to be found near the head waters, and the usual time occupied in driving logs from those points down to your petitioner's mill, at Carleton Place, even with the aid of the said improvements, is about three months, although the ordinary spring freshets do not last one-half of that time. Your petitioner is enabled, by means of the great number of reserving dams, erected by him along the said streams, to retain the water therein, and to utilize it according to his judgment as the logs are coming down, and in this way to create artificial freshets which accompany the logs down, long after the natural freshets have subsided; in fact, by reason of the improvements the whole of the said stream and the above mentioned tributaries from the "High Falls" to their head waters, now consist of a series of locks and artificial reservoirs which, being separated by one controling power, are rendered effective for the work intended, but which, if not operated by one controlling power, would be ineffective and useless. Unless your petitioner had the sole control of this system of water power on the said streams, it would be impossible for him to work it, so as to carry on his operations with any profit.

(10.) During the period of time anterior to the construction of the said improvements almost all the timber and sawlogs cut along the upper parts of the Mississippi and its tributaries, were drawn by horses to the rivers adjacent to the Mississippi, and were brought to market by means of such rivers, it having been generally conceded by the lumbermen in those districts that the natural obstructions in the Mississippi and its tributaries were so formidable as to render it impracticable to improve them so as to render them navigable or floatable for timber or logs. In the purchases aforesaid, and in the course of the work of improving the said streams, and in the general lumbering operations of your petitioner, with the consequent expenditure thereabout, he has conferred great benefits upon the settlers, and has opened up for settlement large tracts of country which would otherwise have remained wilderness land.

(11.) None of the Patents from the Crown to your petitioner, and to those under whom he claims the lands through which the said streams and the tributaries flow, and upon which he has erected such improvements, contain any reservation of right to the Crown or the public to the use of such streams in common with the patentees respectively, and your petitioner when he expended his money as aforesaid, was advised by Counsel, and believed, and still believes, that such streams where they passed throught lands owned by him, became his private property, and that he would

be entitled to the free, uninterrupted and exclusive use and control of the same, and more particularly of the improvements erected by him thereon, and by those from whom he had purchased; and if he had believed that the general public would be entitled to the use of the same in common with himself, he would not have expended his capital thereon, and the said streams would probably to this day have been closed to the public, because of the natural obstacles therein and their consequent uselessness for navigating purposes.

(12.) The conveyances and patents under which your petitioner claims title to the lands aforesaid, comprise all the great natural obstructions on the said streams and its tributaries, and every obstacle therein which it was difficult to overcome.

(13.) Your petitioner in his own right, as riparian proprietor and as the locatee, patentee and grantee of the fee simple of the bed thereof, is the owner of such streams where they pass and flow through the lands owned by him, and has, by the Common Law in force in this Province, full, free and unrestricted control of the same, with the right to use the same for his own private use and benefit, inasmuch as the said streams are private streams and do not come within the denomination of navigable waters.

(14.) In the year 1847, by the Act of the late Province of Canada, 12 Vic., Chap. 87, sec. 5, which was re-enacted in 1859, when the Statutes of the late Province of Upper Canada were revised, and which then became Chap. 48, sec. 15 of the Consolidated Statutes of Upper Canada, and which was again re-enacted in 1877, when the Statutes of the Province of Ontario were revised, and which then became sec. 1 of Chap. 115 of the Revised Statutes of Ontario, the right was given to the general public to float sawlogs and timber down the streams of this Province during the spring, summer and autumn freshets.

(15.) It is generally conceded that, in the absence of the Legislation just referred to, all streams within this Province, which do not come under the denomination "navigable rivers," and being therefore private property, are not open to the public for the purposes of driving timber and sawlogs, but that the right to the use of private property for such purposes, is a right which can only be exercised by the consent of the owner.

(16.) In 1863 the first judicial construction was placed upon the Act, then being sec. 15 of Chap. 48, of the Consolidated Statutes of Upper Canada. In the case of Boale *vs.* Dickson, decided in that year, and reported in the 13th volume of the Upper Canada Common Pleas Reports, at page 337, it was decided that the right given by the Act to the use of private streams extended only to such streams as in their natural state, without improvements, would, during freshets, permit sawlogs, timber, &c., to be floated down the same. This decision was followed in the case of Whelan *vs.* McLachlan, reported in the 16th volume of the said Common Pleas Reports, and in the case of McLaren *vs.* Buck, reported in the 26th volume of the same Reports. The Legislature of Ontario, having by sec. 1, Chap. 115, Revised Statutes of Ontario, re-enacted sec. 15, Chap. 48, Consolidated Statutes of Upper Canada in the same words, and after all these decisions it was assumed that that Legislature had adopted the construction placed upon the original Act by the Courts of the Province.

(17.) Your petitioner has always contended that the Mississippi and its branches above mentioned, were not affected by the said Acts, because they were not, when in a state of nature, capable of being used for floating timber or sawlogs, even during the freshets, having been rendered available for that purpose solely by reason of your petitioner's improvements thereon, and your petitioner, until a short time ago, felt secure in his right to the full, free, uninterrupted and unrestricted use of his said improvements, relying, as he did, upon his legal rights thereto, and he continued annually to increase the improvements, to purchase more land along the said streams, and to spend considerable sums of money in maintaining the same, and in extending his operations in the woods contiguous thereto.

(18.) In the autumn and winter of the years 1879 and 1880 the lumbering firm of "Boyd, Caldwell & Son" commenced getting out timber and sawlogs on a timber limit near the head waters of the Mississippi and Buckshot Creek, such limit being

properly a Madawaska limit, and although they drew the square timber from said limit to the Madawaska River, yet, as their saw mill is at Carleton Place, they drew logs to the Louise Creek and Buckshot Creek, intending to float the same down the said creeks, and down the Mississippi to their mill, and, in so doing, to use the said improvements, and also to interfere with your Petitioner's own operations on the said streams. Your petitioner promptly notified the said firm that he would not allow them to use said improvements, and, as they persisted in their attempt to use the improvements on Louise and Buckshot Creeks, your petitioner, on the 4th day of May, 1880, filed a Bill in the Court of Chancery of Ontario, praying, among other things, that his right in the said streams should be declared, and that the said parties should be restrained from using his said improvements, and from driving logs through his said lands.

(19.) Before proceeding to a hearing and determination of the said Chancery suit, your petitioner offered to allow the logs of the said firm to pass down the said streams and over his improvements, if the said parties would acknowledge his proprietory rights in such improvements, and would pay a fair and reasonable compensation for the use of the same, and the costs of the filing of the said bill of complaint, but the said parties refused your petitioner's said offer, and announced their determination to resist your petitioner's rights to the utmost, and to establish that the said streams were open streams, and that your petitioner had no right to interfere with the free use by the public of the same.

(0.) The examination of witnesses in the same cause, took place at the Town of Brockville on the 27th, 28th and 29th days of October last, and at the Town of Perth on the 7th, 8th, 9th, 10th, 11th, 13th, 14th, 15th and 16th days of December last, before His Lordship Vice-Chancellor Proudfoot, who after hearing the evidence of over 100 witnesses and the arguments of Counsel for both parties, pronounced a Decree on the said last-mentioned day, declaring that those portions of the Mississippi and Louise and Buckshot Creeks, which passed through your petitioner's lands, were not, when in a state of nature, either navigable or floatable for sawlogs or other timber, rafts and crafts down the same, and that your petitioner is entitled to the use of such portions of said streams freed from the interruption, molestation or interference of the defendants in the said suit, and that the latter had no right to the use of any part of the said streams, where they passed through your petitioner's lands for the purpose of driving timber and sawlogs, and a perpetual Injunction was awarded to your petitioner, restraining the defendants therein named from interfering with your petitioner's use of the said streams, and from using your petitioner's improvements therein for the purpose of driving their timber and sawlogs.

(21.) Your petitioner has expended upwards of $7,000 in obtaining the above declaration of his rights in the said streams.

(22.) The defendants in the said Chancery suit gave prompt notice of their intention to appeal to the Court of Appeal, for Ontario, against the said Decree, and the said appeal is now pending in the said Court of Appeal.

(23.) After the filing of the said bill of complaint, and during the progress of the said Chancery suit, your petitioner was repeatedly threatened by the Honorable the Commissioner of Crown Lands for the Province of Ontario, that unless he abandoned his rights in the said streams, the Government of Ontario would cancel the licenses which your petitioner held for getting out timber on the limits tributary to the said streams, and the said Commissioner endeavored, by such threats, to force your petitioner to discontinue his said proceedings, which your petitioner refused to do, as he felt that the Government of Ontario had no right to interfere between him and a private firm, when he was simply asserting his legal rights.

(24.) The said firm of "Boyd, Caldwell & Son," having been defeated by the Court of Chancery, in their attempt to invade the rights of your petitioner, and as your petitioner believes, being advised that the said Decree was in accordance with the laws of this Province, applied to the Government of Ontario to introduce into the Legislature of Ontario, a Bill for the purpose of depriving your petitioner of the benefit of the said Decree, and of enabling them to participate in the enjoyment of the

rights in the said streams, for the acquisition of which your petitioner has paid so large a sum of money. In compliance, your petitioner believes, with such application, the Honorable the Commissioner of Crown Lands of Ontario did, during the last Session of the Parliament of that Province, introduce the Bill which, with a few important amendments, was finally passed by the said Legislature, and received the assent of the Lieutenant-Governor under the title of "An Act for Protecting the Public Interests in Rivers, Streams and Creeks." (Chap. 11.)

(25.) Your petitioner most respectfully begs leave to submit to Your Excellency the pamphlet annexed to this petition, and as forming part thereof containing :—

(*a.*) A printed copy of the said Bill, as originally introduced into the Legislature of Ontario.

(*b.*) A protest issued by your petitioner against the passage of the said Bill, and which protest was in the hands of Members of the Government of Ontario and of Members of the Legislature of Ontario, before the second reading of the said Bill was moved.

(*c.*) A record of the proceedings in the Legislative Assembly of Ontario, at the various stages of the Bill in that Legislature, together with the addresses of the Members of the Legislature upon the Bill.

(*d.*) The said Bill as finally passed.

(*e.*) A few extracts from leading newspapers within the Province, containing expressions of public opinion in regard to the merits of the said Bill.

(26.) Your petitioner most respectfully and humbly submits :

Firstly. That the said Act is *ultra vires* the Legislature of Ontario, inasmuch as the questions assumed to be affected thereby, relate exclusively to the trade and commerce of the Dominion of Canada, and therefore can only be dealt with by the Parliament of Canada.

Secondly. That the streams in question, although not navigable or floatable, when in a state of nature, and unimproved, yet by reason of the expenditure of your petitioner in improving the same, have become navigable for certain purposes, and therefore the said streams are now under the exclusive control of the Dominion of Canada, and the Legislature of Ontario cannot legislate in respect thereto.

Thirdly. That the said Act is unconstitutional, in this, that it assumes to deprive your petitioner of extensive and important private rights, without providing adequate compensation therefor.

Fourthly. That the Legislation embodied in the said Act is contrary to sound principles of Legislation, because it is *ex post facto* in its operation; because it represents interference on the part of the Government, at the instance of one private individual, of his rights; because it declares that to be the law in the past, which the Courts of the Province of Ontario have declared not to be the law, the decisions of such Courts having been ratified and approved of by the Legislature of Ontario, upon the revision of the Statutes of Ontario, in the year 1877. Because the Legislature of Ontario has, without any demand in the public interest, assumed to interfere with private parties engaged in litigation, and while such litigation is still *sub judice*. Because it is in detriment of vested rights, and because it is at variance with the Legislation of the Dominion of Canada, in respect to the public use for timber and log-driving purposes, of improvements on private streams.

Your petitioner most respectfully and humbly submits :

That an Order should be made by Your Excellency for the disallowance of the said Act.

And your petitioner will ever pray.

(Signed) PETER McLAREN.

Further Petition from Mr. McLaren.

To His Excellency the Right Honorable the Marquis of Lorne, K.T., G.C.M.G., P.C., Governor General of the Dominion of Canada.

The Petition of Peter McLaren, of the Town of Perth, in the County of Lanark, Lumberman.

Humbly Sheweth :

That since your Petitioner had the honor of presenting his petition to Your Excellency, praying that the Act passed by the Legislature of the Province of Ontario at the last Session of the House of Assembly of that Province, entitled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," be disallowed by Your Excellency, your Petitioner begs to state that Messrs Boyd, Caldwell & Son have cut away the dam constructed by, and belonging to, your Petitioner at the foot of Long Lake, in the Township of Clarendon, one of the improvements referred to in the said petition.

2. Such dam was erected by your Petitioner for the purpose of retaining the water coming down the stream known as the Mississippi, and reserving it until the timber and logs which your Petitioner cuts on the lands and timber limits in the neighborhood of that stream and its tributaries belonging to him, and driven down to this part of said river, and without which it would be impossible for your Petitioner to drive his timber or sawlogs from the head-waters of the said stream down the same in one season.

3. The said dam was an expensive structure, costing a large sum of money, to wit, in or about the sum of three thousand dollars.

4. The said Messrs. Boyd, Caldwell & Son have likewise taken forcible possession of a dam erected by your Petitioner at the outlet of Buckshot Lake, and being at the head of Buckshot Creek, and have and are preventing your Petitioner's men who come and are engaged in driving his logs down the Buckshot Creek from permitting the water retained in and by the dam to flow, as required by your Petitioner to flush the said creek, so as to give a sufficient depth of water in the same, to enable your Petitioner to float his logs down to the Mississippi.

5. The said Messrs. Boyd, Caldwell & Son, on the 14th day of the present month of April, demanded of your Petitioner that he should fix the tolls at which he would permit their logs to pass through your Petitioner's improvements on the said Mississippi stream and Buckshot Creek, threatening that, in default of your Petitioner allowing them their logs through the said improvements, that they would cut his dams, mentioning, especially, the dams at the foot of Long Lake and at the High Falls.

6. Your Petitioner, refusing to recognize the validity of the said Act, for which he has petitioned the disallowance, for the reasons set forth in the former petition to Your Excellency, declined to permit the passage of the logs of the said Messrs. Boyd, Caldwell & Son through his improvements, or to fix any toll for the passage thereof, but he renewed his former offer of permitting their passage if the said Messrs. Boyd, Caldwell & Son would acknowledge your Petitioner's proprietory rights, and pay the costs of the litigation caused by the unjust attempt to force a passage through his improvements.

7. The reply of Messrs. Boyd, Caldwell & Son is the destruction of your Petitioner's dam at the foot of Long Lake, and the taking possession by force of his dam, at or near the outlet from Buckshot Lake.

8. Your Petitioner is advised that so long as the said Act remains in force, and unless and until it is disallowed by Your Excellency, as your Petitioner humbly prays it may be, that your Petitioner has no redress in the Courts for the destruction of his property or to prevent the destruction of other dams and improvements made by him on the said streams, which the said Messrs. Boyd, Caldwell & Son threaten, and will, as your Petitioner believes, do, unless the said Act be disallowed without unnecessary delay.

9. Your Petitioner is further advised that under the provisions of said Act, express permission is given to all and every person driving logs down the said stream (or other streams) to remove, in the language thereof, "any obstruction from such river, creek or stream * * * necessary to facilitate the floating and transmitting of such sawlogs * * * down the same," and it is under color and pretence of this unrighteous provision, that the said Messrs. Boyd, Caldwell & Son are now acting in destroying your Petitioner's property.

10. Under these circumstances, entailing great and serious loss on your Petitioner, he ventures again humbly to represent to Your Excellency that in addition to the other reasons given by him in the said former petition for the disallowance of the said Act, that your Petitioner will be prevented by those acts of waste, from getting his logs to his mills, and will, and has already, sustained great damage by the high-handed acts of the said Messrs. Boyd, Caldwell & Son, and he fears that much of his said property will be irreparably destroyed, for which, so long as the said Act remains in force, your Petitioner is absolutely without redress.

Your Petitioner therefore prays that Your Excellency may be graciously pleased to take the matter of the disallowance of the said Act into Your Excellency's consideration at an early day, and to disallow the same, and your Petitioner, as in duty bound, will ever pray.

PETER McLAREN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th May, 1881.

I have the honor to report with respect to an Act passed by the Legislature of the Province of Ontario at its last Session (Chap. 11), intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks."

Application for the disallowance of this Act has been made by Mr. Peter McLaren, of the Town of Perth, lumber manufacturer, on the ground, in effect, that the Act in question deprives him of vested private rights without compensation, and practically reverses the decision of the Court of Chancery in a case brought by him against one Caldwell, whereby Mr. McLaren's exclusive right to the use of improvements erected by him, or those through whom he claims, on certain streams in the Province of Ontario, was established by a Decree of the Court.

The Act, by its first section, declared that all persons have, and always have had, during the spring, summer and autumn freshets, the right to float and transmit sawlogs, &c., down all rivers, creeks and streams, in respect of which the Legislature of Ontario has authority to give this power, and in case it may be necessary to remove any obstruction from such river, creek or stream, or construct any apron, dam, &c., necessary to facilitate the floating of sawlogs, &c., down the same, it shall be lawful for the person requiring to float down the sawlogs, &c., to construct such apron, dam, &c.

The second section declares that, in case any person shall construct, in or upon such river, creek or stream, any such apron, dam, &c., or shall otherwise improve the floatability of such river, creek or stream, such persons shall not have the exclusive right to the use or control thereof, but all persons shall have a right to use them, subject to the payment, to the person who has made such constructions and improvements, of reasonable tolls.

The third section extends the operations of sections 1 and 2 to all rivers, creeks and streams mentioned in the first section, and to all constructions and improvements made therein, whether the bed of the river, &c., or the lands through which it runs, belongs to the Crown or not.

The fourth section empowers the Lieutenant-Governor in Council to fix the amounts which any person entitled to tolls under the Act, shall be at liberty to charge on sawlogs, &c.

The fifth section extends the previous provisions of the Act to all such constructions and improvements as may hitherto have been made, as well as to those hereafter constructed.

The sixth section gives to all persons driving sawlogs, &c., down the streams, the right to go along the banks.

The seventh and last section declares that, if any suit is now pending, the result of which will be changed by the passage of this Act, the Court may order the costs of the suit to be paid by the party who would have been required to pay the costs, if the Act had not been passed.

It is tolerably clear that this section refers specially to the suit of McLaren against Caldwell, above referred to.

It appears that Mr. McLaren is the owner of certain streams, which he makes use of for the purpose of floating down sawlogs from the timber limits from which he takes the same, for the purposes of his business as a lumber manufacturer.

Mr. Caldwell is also a lumber manufacturer, owning timber limits in the neighborhood of those owned by Mr. McLaren.

He attempted to float his logs down Mr. McLaren's streams, and through his improvements.

To prevent his doing so, the suit in Chancery above referred to was instituted, and a Decree was made declaring Mr. McLaren exclusively entitled to the use of the streams and improvements, and restraining Mr. Caldwell from floating his logs down the same. That case has been appealed to the Court of Appeal. The effect of the Act now under consideration must necessarily be to reverse the decision of this suit.

Had this Act, instead of giving to any person desiring to make use of the streams, the right to use the same upon payment of certain tolls, absolutely expropriated the whole ownership of the streams for the public use, and provided a means of compensating the owners for the property so taken from them, it would be less objectionable in its features.

The effect of the Act, as it now stands, seems to be to take away the use of his property from one person and give it to another, forcing the owner, practically, to become a toll-keeper against his will, if he wishes to get any compensation for being thus deprived of his rights.

I think the power of the Local Legislatures to take away the rights of one man and vest them in another, as is done by this Act, is exceedingly doubtful, but assuming that such right does, in strictness, exist, I think it devolves upon this Government to see that such power is not exercised, in flagrant violation of private rights and natural justice, especially when, as in this case, in addition to interfering with private rights in the way alluded to, the Act overrides a decision of a Court of competent jurisdiction, by declaring retrospectively that the law always was, and is, different from that laid down by the Court.

In reporting upon a reserved Bill of the Prince Edward Island Legislature in 1876, the then Acting Minister of Justice reported to Council, and His Excellency was advised to withhold his assent from the Bill, one of the grounds being, that the Bill was retrospective in its effect; that it dwelt with the rights of the parties then in litigation, and that there was no provision saving the rights of private parties.

On the whole, I think the Act should be disallowed. I recommend, therefore, that the Act passed by the Legislature of Ontario at its last Session, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," be disallowed.

JAMES McDONALD,

Minister of Justice,

per J. A. M.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 31*st May*, 1881.

On a Report, dated 17th May, 1881, from the Honorable the Minister of Justice, with respect to an Act passed by the Legislature of the Province of Ontario at its last Session, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks;"

The Minister states that application for the disallowance of this Act has been made by Mr. Peter McLaren, of the Town of Perth, lumber manufacturer, on the ground in effect that the Act in question deprives him of vested private rights without compensation, &c.

For the reasons set forth in his Report, the Minister recommends that the Act, passed by the Legislature of Ontario at its last Session, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," be disallowed.

The Committee advise that the Act be disallowed accordingly, and that a copy of the Report of the Minister of Justice be forwarded to the Government of Ontario for their information.

Certified.

J. O. COTÉ,
Clerk Privy Council.

Copy of Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Thursday, 19th May, 1881.

PRESENT:

His Excellency the Governor General in Council.

Whereas the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province, did, on the 4th day of March, 1881, pass an Act which has been transmitted, entitled as follows, viz.: "An Act for protecting the Public Interests in Rivers, Streams and Creeks;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

Certified.

J. O. COTÉ,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of Ontario the 4th day of March, 1881, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," was received by me on the 26th day of March, 1881.

Given under my hand and seal this 19th day of May, 1881.

LORNE.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 26th May, 1881.

SIR,—I have the honor to state that it appears, by the last issue of the *Canada Gazette*, that His Excellency the Governor General has disallowed the Act passed by the Legislature of Ontario at its recent Session, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," and to inform you that my Government will be pleased to receive from the Government of Canada, a statement of the ground upon which His Excellency was advised to disallow it, as it is undoubtedly in respect of matters which, by the British North America Act, are placed under the authority of the Legislature of this Province.

I have, &c.,

J. B. ROBINSON,

Lieutenant-Governor of Ontario.

Hon. Secretary of State,
Ottawa.

Mr. Under Secretary Langevin to Lieutenant-Governor of Ontario.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 30th May, 1881.

SIR,—I am directed to transmit to you, herewith, for the information of your Government, an Order of His Excellency the Governor General in Council declaring His Excellency's disallowance of an Act of the Legislature of the Province of Ontario, passed at its last Session, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," together with the certificate of His Excellency as to the date of its receipt appended thereto.

I have, &c.,

EDOUARD J. LANGEVIN,

Under Secretary of State.

His Honor
The Lieutenant-Governor of Ontario.

Lieutenant-Governor of Ontario to Secretary of State.

GOVERNMENT HOUSE, TORONTO, 22nd October, 1881.

SIR,—Adverting to previous correspondence on the subject of the disallowance by His Excellency the Governor General in Privy Council, of the Act of the Legislature of the Province of Ontario, passed in the 44th year of Her Majesty's reign, Chapter eleven, and intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," I have now the honor of transmitting, for the consideration of His Excellency the Governor General in Council, a copy of an Order in Council approved by me the 14th instant, and of the Report of the Honorable Mr. Crooks, Attorney-General, *pro tempore*, therein alluded to.

I have, &c.,

J. B. ROBINSON,

Lieutenant-Governor of Ontario.

Hon. Secretary of State,
Ottawa.

COPY *of an Order in Council approved by His Honor the Lieutenant-Governor, the* 14*th day of October, A. D.* 1881.

The Committee of Council have had under consideration the annexed Report of the Honorable Mr. Crooks, respecting the disallowance by His Excellency the Governor General in Privy Council, of the Act of the Legislature of the Province of Ontario, passed in the 44th year of Her Majesty's reign, Chapter eleven, and intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," and advise that Your Honor approve thereof, and that a copy of this Minute in Council and of the said Report, be transmitted to the Secretary of State for Canada, for the consideration of His Excellency the Governor General in Council.

Certified,

J. G. SCOTT,

Clerk Executive Council, Ontario.

Report of Hon. Mr. Crooks, Acting Attorney-General.

The Report of the undersigned to His Honor the Lieutenant-Governor of Ontario, respecting the disallowance by His Excellency the Governor General in Privy Council, of the Act of the Legislature of the Province of Ontario, passed in the 44th year of Her Majesty's reign, Chapter eleven, and intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks," respectfully sheweth as follows:—

1. This Act was passed on the 4th March, 1881. It was received by His Excellency the Governor General on the 26th of the same month, and on the 19th of May following was disallowed by him—"by and with the advice of his Privy Council"—in the Report of the Honorable the Minister of Justice, dated the 17th of May. This disallowance was published in the *Canada Gazette* on the 21st of May, but no other notice was received by the Government of Ontario until His Honor the Lieutenant-Governor, by his Despatch of the 26th May to the Honorable the Secretary of State, had requested to be furnished by the Government of Canada, with a statement of the grounds upon which His Excellency had been advised to disallow an Act, which was undoubtedly in respect of matters placed by the British North America Act under the authority of the Legislature of this Province.

In reply, His Honor, on the 30th of May, received the Despatch of the Honorable the Secretary of State, with a copy of the Order of His Excellency the Governor General in Privy Council, based on the Report of the Committee of the Honorable the Privy Council, and adopting the reasons set forth in the Report of the Honorable the Minister of Justice of the 17th of May for the disallowance of this Act. This Report states that Peter McLaren, of the Town of Perth, lumber manufacturer, had applied for the disallowance of this Act, on the ground that it deprived him of vested private rights without compensation, and practically reversed the decision of the Court of Chancery in a case brought by him against one Caldwell, whereby Mr. McLaren's exclusive right to the use of improvements erected by him, or those through whom he claimed, on certain streams in the Province of Ontario, was established by a Decree of the Court.

3. The Minister of Justice, in his Report, sets out the different provisions of the Act, namely: the declaration of right as expressed in the first section of the Act, that in so far as the Legislature of the Province of Ontario had authority so to enact: "All persons have and are hereby declared to have, during the spring, summer and autumn freshets, the right to float and transmit sawlogs, timber, &c., down all rivers, creeks and streams, in respect of which the Legislature of Ontario has authority to give this power, and in case it might be necessary to remove any

obstructions from such river, creek or stream, or construct any apron, dam, &c., necessary to facilitate the floating of sawlogs, timber, &c., down the same, it should be lawful for the person requiring to float down the sawlogs, timber, &c., to remove such obstruction and to construct such apron, dam, &c."

The Report also gives the effect of the second section of the Act which declares that: "In case any person shall construct in or upon such river, creek or stream, any such apron, dam, &c., or shall otherwise improve the floatability of such river, creek or stream, such persons shall not have the exclusive right to the use or control thereof; but all persons shall have a right to use them, subject to the payment to the person who has made such constructions and improvements, of reasonable tolls." By the third section of the Act, the provisions of the first and second sections are extended to all rivers, creeks and streams mentioned in the first section of the Act, and to all constructions and improvements made therein, whether the bed thereof or the land through which it runs has been granted by the Crown or not, and, if granted by the Crown, shall be binding upon such grantees and their assigns. The fourth section empowers the Lieutenant-Governor in Council to fix the amounts which any person entitled to tolls under the Act shall be at liberty to charge on sawlogs, &c. The fifth section extends the previous provisions of the Act to all such constructions and improvements as may hitherto have been made, as well as to those hereafter constructed. The sixth section gives to all persons driving sawlogs down the streams, the right to go along the banks. The seventh and last section declares that if any suit is now pending, the results of which will be changed by the passage of this Act, the Court may order the costs of the suit to be paid by the party who would have been required to pay the costs, if the Act had not been passed.

4. The Report of the Minister of Justice thereupon proceeds to state that it is tolerably clear that the last section refers specially to the suit of McLaren against Caldwell, and offers the following grounds for the disallowance of the Act:

"Had this Act, instead of giving to any person desiring to make use of the stream the right to use the same upon payment of certain tolls, absolutely expropriated the whole ownership of the streams for the public use, and provided a means of compensating the owners for the property so taken from them, it would be less objectionable in its features. The effect of the Act as it now stands seems to be to take away the use of the property from one person and to give it to another, forcing the owner practically to become a toll-keeper against his will, if he wishes to get any compensation for being deprived of his rights. I think the power of the Local Legislature to take away the rights of one man and vest them in another, as is done by this Act, is exceedingly doubtful; but assuming that such right does in strictness exist, I think it devolves upon this Government to see that such power is not exercised in flagrant violation of private rights and natural justice, especially when, as in this case, in addition to interfering with private rights in the way alluded to, the Act over-rides a decision of a Court of competent jurisdiction, by declaring retrospectively that the law always was and is different from that laid down by the Court."

After reference to the reserved Bill of Prince Edward Island, "To amend the Land Purchase Act of 1875," which failed to receive the assent of the Governor General, the Minister concludes his reasoning and reports that "on the whole" he thinks the Act should be disallowed.

5. The application of McLaren for the disallowance of this Act was considered and given effect to, without any notice to the Government of Ontario, and this appears to the undersigned to be in direct violation of the definite settlement between the Imperial, Dominion and Provincial Governments in the first year of Confederation respecting Legislation, and the respective powers and courses of procedure as to the disallowance of Acts, or the assent to, or dissent of, Bills reserved, by the Imperial and Dominion Governments, of Canadian, and Provincial enactments respectively.

6. Return No. 35, in the Sessional Papers of Canada for 1870, contains the correspondence on this subject between the Imperial, Dominion and Provincial Governments, and the Order of the Governor General in Privy Council of the 9th June, 1868, approving of the memorandum of the Minister of Justice (then Mr. J. A. Macdonald),

of the 8th June, 1868, which laid down as the result of the full and complete consideration given by him to this subject, a definite basis for governing all such questions, and the respective relations of the several authorities concerned. The express object of this memorandum was the settlement of the course to be pursued by the Governor General in Council with respect to Acts passed by the Provincial Legislatures in the exercise, under the British North America Act, of the same powers of disallowance, which had always theretofore belonged to the Imperial Government, with respect to Acts passed by the Province of Canada.

7. The memorandum states that of late years the Imperial Government has not, as a general rule, interfered with the Legislation of Colonies having Representative Institutions and Responsible Government, except in the cases specially mentioned in the instructions to the Governors, or in matters of Imperial, and not merely Local interest; that under the present constitution of Canada, the General Government would be called upon to consider the propriety of allowance or disallowance of Provincial Acts much more frequently than Her Majesty's Government had been with respect to Colonial enactments; that in deciding that any Act of the Provincial Legislature should be disallowed or sanctioned, the Government must not only consider whether it affects the interests of the whole Dominion or not, but also whether it would be unconstitutional, in exceeding the jurisdiction conferred on Local Legislatures, and in cases where the jurisdiction is concurrent, whether it clashes with the Legislation of the Dominion Parliament; that it was of importance that the course of Local Legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law and general interests of the Dominion imperatively demanded, and the Minister of Justice thereupon recommended that the following course should be pursued :—

"That on the receipt, by Your Excellency, of the Acts passed in any Province, they be referred to the Minister of Justice for report, and that he, with all convenient speed, do report as to those Acts which he considers free from objection of any kind, and if such report be approved of by Your Excellency in Council, that such approval be forthwith communicated to the Provincial Government.

"That he make a separate Report, or Reports, on those Acts which he may consider,—

"1. As being altogether illegal or unconstitutional;

"2. As illegal or unconstitutional in part;

"3. In cases of concurrent jurisdiction, as clashing with the Legislation of the General Parliament;

"4. As affecting the interests of the Dominion generally.

"And that in such Report or Reports, he gives his reasons for his opinions :—

"That when a measure is considered only partially defective, or when objectionable as being prejudicial to the general interests of the Dominion, or as clashing with its Legislation, communication should be had with the Provincial Government with respect to such measure, and that in such case the Act should not be disallowed, if the general interests permit of such a course, until the Local Government has an opportunity of considering and discussing the objections taken, and the Local Legislature has also an opportunity of remedying the defects found to exist."

8. The Order of the Governor General in Council and a copy of this memorandum were officially communicated to the Lieutenant-Governors of Ontario, Quebec, Nova Scotia and New Brunswick, for the information and guidance of their Governments; and also by the Governor General, in his Despatch of the 11th March, 1869, to the Imperial Government, showing that, as an Act of State, the Dominion Government held itself to be bound by the principles and courses of procedure so laid down and settled upon, in the exercise of this power of disallowance under the Confederation Act.

9. Until the disallowance of the present Act, these principles and procedure had been universally observed by the Governor General in Council, in regard to all Acts passed by any of the Provincial Legislatures, in which any question of disallowance was raised, and the different Ministers of Justice hitherto have, in their Reports, pre-

scribed by the Order in Council of the 9th June, 1868, strictly kept within such principles and have followed the specified procedure.

10. It will be seen that it was definitely settled that the several objections to any Act which the Minister of Justice was authorized to report upon, were confined to cases :—

(1.) Where the Act was altogether or in part unconstitutional, *i. e.*, not within the subjects of Provincial Legislation authorized by the Act of Confederation ;

(2.) Which might be within the subject of both Dominion and Provincial Legislation so authorized, when the latter clashes with the former ; and

(3.) Affecting the rights or interests of the Dominion generally, as distinguished from Provincial or Local ;

And the Minister of Justice was also required to set forth his reasons for reporting against any Provincial Act on any of these grounds, and in every such case the Provincial Government was to have an opportunity of considering and discussing the objections taken, and of remedying any defect.

11. It is, therefore, manifest that the Minister of Justice in reporting against the Act, in the present case, has disregarded the plain duty imposed upon him by the terms, under which the Dominion Government bound itself to the different Provinces, to exercise this power.

12. The grounds taken by him are the renewal of the same reasons on which an amendment was proposed in the Legislative Assembly, on the third reading of the Bill, when Mr. Meredith moved, seconded by Mr. Morris, " That while the House is willing to pass such enactments as may be necessary for protection of the public interests in rivers, streams and creeks, it is of opinion that the Bill is calculated to interfere with important private interests, without making adequate compensation for such interference, and is, therefore, opposed to sound principles of Legislation, and calculated to form a dangerous precedent, and ought not, as now framed, to become law." The motion was lost on a division, by a vote of 23 to 56.

13. The Minister of Justice also argues that if this Act had absolutely appropriated the whole ownership of the streams for the public use, and provided compensation, it would be less objectionable in its features. The Minister has not ventured to deny the Legislative Authority of the Province to so enact, if thought expedient, in the public interest. The point of his objection is—" That the Act seems to take away the use of his (the owner's) property from one person, and give it to another, forcing the owner practically to become a toll-keeper against his will, if he wishes to get any compensation for being thus deprived of his rights."

The mode of compensation which would be just to all parties, is certainly a matter to be considered and determined by the Representatives of the people in Provincial Parliament assembled, and not by the Minister of Justice, or the Dominion Government, on the private *ex parte* statement of a private individual.

14. If the Minister of Justice had considered the language of the first section of the Act, it would have informed him in distinct terms that the Legislature had, in the exercise of one of its most valuable attributes, declared and settled the Common Law of the Province on the subject of its rivers and streams, and corrected the erroneous interpretation of certain Statutes relating thereto.

15. Until the decision of the Vice-Chancellor, in the suit of McLaren *vs.* Caldwell, gave color to the exclusive pretensions of Mr. McLaren that he could absolutely debar any proprietor farther up the river, from enjoying the facilities supplied by its waters on the ground that he (McLaren) owned its bed, and had made improvements on his own land, the Province did not become aware that so injurious a conclusion was possible ; and that the imperative duty was at once imposed on the Provincial Legislature, to settle beyond further question, that the use of all rivers and streams within Provincial Jurisdiction, for floating down sawlogs and timber, whether their beds were patented or not, were of common and public right, and that the owner of such lands could not lawfully control such stream, to the exclusion of other persons desirous of using the same for such purpose.

16. The public revenue of the Province and the interests of all other persons would otherwise be practically at the mercy of every proprietor who had the advantageous position of Mr. McLaren, and the activity and impetus which, from the first settlement of the Province, have prevailed in the manufacture of lumber, would have become paralyzed, to the great injury of Provincial interests ; it being not only the undoubted right, but the pressing duty of the Ontario Legislature to correct any construction of the Provincial Law, which was contrary to the long usage and course of practical enjoyment of such easements, and would cause such great loss and injury, the Legislature could further impose such regulations as it thought reasonable, without being subjected to any such reflection as the Minister of Justice thought fit to employ, when he reported that the Provincial Legislature had exercised its power, in " flagrant violation of private rights and natural justice."

17. In giving effect to the Report of the Minister of Justice, the Dominion Government has disregarded Provincial rights of Legislation, clearly and solemnly defined and settled by the Order in Council of the 9th June, 1868. The attempt of the Dominion Government to review the provisions of an Act, passed by the Provincial Legislature on a subject within its competency under the British North America Act, was a wrongful interference with the constitutional rights of self-government possessed by each Province.

18. The British North America Act shows that, while the different Provinces were Federally united in one Dominion, with Constitutions similar in principle to the British, the respective Executive Legislative Powers and Authorities of the Provincial and Dominion Governments were also defined and dealt with, as alike sovereign in their nature, within the limits of the subjects assigned to each respectively.

The Confederation Act was intended to give practical effect to the exercise of the fullest freedom in the administration and control in local matters within each Province, which was the main object of Quebec and Ontario, especially, in seeking such Union. This fundamental principle of local self-government runs through the whole of this constitutional Act, and in order that it may be preserved intact, the utmost vigilance on the part of every Province should be constantly alive to every attempt of the Central Government to transfer the control of Local Affairs from the Government having the greatest interest in them, and possessing the fullest knowledge of them, and under a direct responsibility to the people of the Province, to a Government which necessarily has the least knowledge of, and the smallest interest in, such matters.

19. Not only has the Government of the Dominion thus transgressed the constitutional rights of the Province in disallowing an Act within the competency of the Province, but the recent decision of the Court of Appeal of Ontario, overruling that of the Vice-Chancellor, removes whatever color might have existed for Mr. McLaren's exclusive pretensions, and leaves the objection of the Minister of Justice without any support.

20. The Court of Appeal of Ontario, on the 8th July instant, determined that the legal rights claimed by Mr. McLaren did not exist, and in effect that, if the rule of the Common Law was not in itself sufficient to establish this public easement, such was the proper construction of previous Legislation, and that all rivers, creeks and streams in this Province were properly *publici juris*, for the transmission of timber and sawlogs, with the like incidents as highways or other easements, in which the public possessed an interest.

21. The decision of the Court of Appeal recognizes the paramount importance of these principles in fostering the lumbering interests, in which the Province, as well as the manufacturer is pecuniarily interested, and by which the general public of the Province are largely benefited.

22. Whatever may be the ultimate determination of any Tribunal on the legal question, the whole subject-matter was, and is, within the competency of the Legislature of Ontario; and in any doubt as to the law affecting the relative rights of the Province, proprietors and general public, with respect to easements of a public

nature, the whole course of Legislation, Imperial, Canadian and Colonial, justified the Legislature of Ontario in dealing with the question as it has done.

23. The undersigned is unable to find, in the numerous Acts which have been passed since Confederation by the different Provinces, and which, under the procedure so definitely settled by the Order in Council of the 9th June, 1868, have all been considered and reported upon by the Minister of Justice for the time being, to the Governor General in Council, that any one of them has been reported for disallowance upon such ground as was taken by the Minister of Justice in this case, or upon any other objections than those defined by the Order in Council of the 19th of June, 1868.

24. The reserved Bill cited by the Minister of Justice from Prince Edward Island, comes within a different principle, expressly provided for by the Confederation Act, under which it is stricly constitutional, having regard to the principles of responsible government, that the Lieutenant-Governor, one branch of the Provincial Legislature, may, with the advice and consent of the Executive Council, invoke the authority of the Governor General, and if the circumstances show the Bill to be objectionable to Dominion policy, assent to it may properly be refused. Without the assent of the Lieutenant-Governor the Bill is not the Act of the Legislature, of which he forms an essential part.

25. There are many illustrations which show that the disallowance of the Act in question was singular and exceptional. One of these is the Act regulating the estate of George J. Goodhue. (See Dominion Sessional Papers of 1877, p. 180). The objections urged in the petition against the Act were forwarded by the Lieutenant-Governor of Ontario to the Secretary of State, with his own observation that he regarded the principle involved in the Bill passed by the Assembly as very objectionable and forming a dangerous precedent, but that, in the absence of instructions and on the advice of his Council, he had given it his assent. In the Report of the Minister of Justice (Sir John A. Macdonald), he refers to this Act as petitioned against, " but as it is within the competence of the Provincial Legislature," recommends " that it should be left to its operation."

26. If it had not been for the further position taken by the Minister of Justice in his Report, that the Dominion Government had not only the power, but that it devolved upon such Government to see that the jurisdiction of the Provincial Legislature was not exercised retrospectively, in declaring that the law was, and is, different to that decided by the Court, it would not have been necessary to observe, that it is one of the duties incumbent on all Legislatures, and repeatedly exercised by them, to enact laws which, if deemed necessary in the public interest, should have a retroactive, as well as future operation. It is generally litigation or judicial decision which gives origin to such remedial Legislation, and each Legislature must be supreme in determining the extent of its interference, as well as the necessity for its action. There are numerous examples of such Acts passed by the Imperial Parliament and by Colonial and other Legislatures, as well in cases of litigation pending, as when there has been a Judicial decision to the contrary.

27. When the Minister of Justice states in his Report that the power of a Provincial Legislature to enact such a law is " exceedingly doubtful," he has assumed a grave responsibility, for he is the first Minister who has ventured upon such a proposition, and that, too, without submitting any general grounds for an opinion which, if there was any foundation for it, would so seriously affect Provincial autonomy. The Minister, however, stands alone in his doubt, and his Report contains the first official expression of this, which has emanated from any source. The contrary view has been taken and uniformly acted upon by the Dominion Government since Confederation till now, and numerous examples exist to show that the present Premier of the Dominion, when Minister of Justice, proceeded upon a directly opposite conclusion, and unequivocally recognized the supreme Legislative authority of the Provincial Legislature, in all subjects within its jurisdiction, notwithstanding its Acts had declared the law to be other than was decided by a Court, or interfered with pending litigation, or had been retroactive. For instance, in the first four years of

Confederation (not to refer to subsequent years also) there are to be found the Ontario Acts "Concerning Sheriff's sales for taxes," respecting the estate of Sir Henry Smith, "The Goodhue Will," and the numerous Acts legalizing invalid Municipal by-laws, all of which were left to their operation, notwithstanding the objections thereto. A notable example is the Act passed in 1871, and introduced by Mr. Sandfield Macdonald's Government, for the express purpose of relieving the same Peter McLaren (the claimant here) and others from the decision of the Court of Common Pleas in Easter Term, 1870, in the suit of the Corporation of the Township of Barrie against John Gillies and Peter McLaren, defendants, for cutting timber as the licensees of the Crown on Government road allowances, which the Court held the licensees had no right to do, against the possession and control of the Municipality, contrary to the express decision of the Court that the timber or road allowances could not be taken as timber or ungranted lands of the Crown. Nevertheless, the first section of this Act declared and enacted that, "Every Government road allowance included in any Crown timber license heretofore granted, or which may hereafter be granted, &c., shall be deemed and taken to be and to have been *ungranted* lands of the Crown, and liable, as such, to be included in such license." The second section declared the licensees have had all the right of cutting timber which the Court had decided he had not in the case referred to.

28. Upon this review of the reasons which the Minister of Justice has been pleased to give for the disallowance of the Act in question, the undersigned respectfully submits that they fail to support his conclusion, in the particulars for which he has advanced them; but the constitutional objections to any recommendation for disallowance being open to the Minister of Justice, in any case within the Provincial jurisdiction, are so decisive that it was scarcely necessary for the undersigned to have discussed such reasons, except to show how unwarranted they were.

29. The undersigned considers that the harmony of the relations between the Central and Provincial Governments, so essential to the beneficial working of the Federal system, can only be preserved by confining the exercise of the power of disallowance by the Governor General in Council, to Acts objectionable as to their constitutional validity, or obnoxious to the Laws or general interests of the Dominion, and that the Governor General in Council should not assume to review any of the provisions of a Provincial Act within its competency, and thus wrongfully interfere with the responsibility of the Provincial Government and Legislature to the people of the Province, to whom alone they are subject, and not to the Dominion Government.

30. The undersigned therefore recommends that this Government should respectfully assert and continue to assert, the responsibility and sovereign authority of the Provincial Legislature in considering, making and framing all such laws respecting property and civil rights within the Province, and the other subjects exclusively assigned to it by the Confederation Act, as that Legislature may think best for the welfare and good government of the Province, subject to the British principle of constitutional responsibility to the people of the Province, and free from any such revision or control by the Dominion Government, as has been improperly exercised by the disallowance of this Act for protecting the public interests in rivers, streams and creeks, within the jurisdiction of Ontario, and that this Report be approved of, and forwarded by Your Honor to the Secretary of State, for the information of the Government of the Dominion.

Respectfully submitted,

ADAM CROOKS,

Attorney-General pro tempore.

ATTORNEY-GENERAL'S DEPARTMENT,
TORONTO, 12th July, 1881.

Mr. Under Secretary Langevin to Lieutenant-Governor of Ontario.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 24th October, 1881.

SIR,—I am directed to acknowledge the receipt of your Despatch of the 22nd instant, enclosing a copy of a Minute of your Executive Council, and of the Report of the Honorable the Attorney-General *pro tempore*, therein referred to, in further reference to the disallowance by His Excellency the Governor General in Council, of the Act of the Ontario Legislature passed in the 44th year of Her Majesty's reign, intituled: "An Act for protecting the Public Interests in Rivers, Streams and Creeks."

I have, &c.,

EDOUARD J. LANGEVIN,
Under Secretary of State.

To His Honor
The Lieutenant-Governor of Ontario.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th January, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report, with respect to the Acts passed by the Legislature of the Province of Ontario, in the year 1881, as follows:—

Chap. 1. An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty-one, and for other purposes therein mentioned.

Chap. 2. An Act to amend the Act respecting the sale and management of Timber on Public Lands.

Chap. 3. An Act to amend the Ontario Drainage Act.

Chap. 4. An Act to amend the law respecting the Registration of Births, Marriages and Deaths.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 5. An Act to consolidate the Superior Courts, establish a uniform system of Pleading and Practice, and make further provision for the due Administration of Justice. While recommending that the power of disallowance be not exercised with respect to this Act, the undersigned desires to point out that there are provisions in it, which appear to him to be *ultra vires* of the Provincial Legislature. Among others, the following may be mentioned:—

1. The Act in effect assumes not only to constitute Courts, but to appoint the Judges of the Courts, the appointment of whom, by the British North America Act, is vested in Your Excellency. The Act unites and consolidates together, under the name of the Supreme Court of Judicature for Ontario, the previously existing Courts of Appeal, Queen's Bench, Chancery, Common Pleas, and it divides this Supreme Court into two permanent divisions:

One to be called the Court of Appeal for Ontario, and the other the High Court of Justice for Ontario. The Act then declares in effect that the Judges of the previously existing Courts shall be Judges in the new Courts.

As the undersigned was of opinion that the Legislature, in assuming to declare who should be Judges in the Courts, exceeded its legislative authority, he advises Your Excellency to issue to the respective Judges, the necessary Commissions under the great seal of Canada. These Commissions have been issued and the authority of the Judges thereby been placed beyond question.

2. Section 43 provides as follows :—

"No appeal shall lie to the Supreme Court of Canada without the special leave of such Court or of the Court of Appeal, unless the title to real estate or some interest therein, or the validity of a patent is affected ; or unless the matter in controversy on the appeal exceeds the sum or value of $1,000, exclusive of costs ; or unless the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or a public nature, affecting future rights."

The undersigned thinks the power of a Provincial Legislature to pass such an enactment is very doubtful. It is to be observed, however, that any person aggrieved thereby has an easy mode of testing the question.

3. Section 63 provides that the Judges of the County Courts shall be Official Referees for the trial of such questions as shall be directed to be tried, and section 64 provides that when there is no Local Master of the Court at the commencement of the Act, or when a vacancy occurs in the office of Local Master, the Judge of the County Court for the County shall be the Local Master, until and unless another person be appointed. As Referees or as Local Masters, the County Judges may receive fees.

The undersigned thinks it doubtful whether the Provincial Legislature can constitutionally in this manner appoint Judges, who hold office by Commission from Your Excellency, to other offices under the Provincial Government. The expediency of allowing County Judges to act as Referees and Local Masters is questionable, and the same may, at some future time, require the consideration of Parliament. Should Parliament think proper to legislate upon the subject, it is evident that the provisions last referred to of the Act now under consideration, would become inoperative.

4. The Act vests in the Judges of the County Courts certain jurisdiction in actions in the High Court, and section 76 provides that the Judges of the several County Courts shall be Judges of the High Court for the purposes of their jurisdiction in actions in the High Court, and the exercise of such jurisdiction may be styled Local Judges of the High Court. The power of the Legislature to appoint the County Court Judges to be Local Judges of the High Court, even for the limited purpose mentioned in the Act, is doubtful. Some of the County Court Judges have refused to act unless appointed by Commission from Your Excellency.

The undersigned has already advised Your Excellency to issue Commissions to the several County Court Judges, appointing them to be Local Judges of the High Court for the purposes of the Act. These Commissions will, it is thought, remove any doubts as to their right to act.

5. Section 79 empowers the Lieutenant-Governor in Council, with the consent of any County Court or Surrogate Judge, to commute the fees payable to him under the Surrogate Courts Act, for a fixed annual sum, and authorizes the Lieutenant-Governor in Council, in certain events, to pay to the Junior Judge of the County, a sum not exceeding $666 per annum.

The British North America Act, section 96, empowers the Governor General to appoint the Judges of the Superior, District and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

The exception made by this section indicates that the Courts of Probate in Nova Scotia and New Brunswick would come within the meaning of the words "Superior, District and County Courts" in the Province, and there seems no reason why those words should not include the Surrogate Courts of the Province of Ontario.

The 100th section of the British North America Act provides that the salaries, allowances and pensions of the Judges of the Superior, District and County Courts, except the Courts of Probate in Nova Scotia and New Brunswick, shall be fixed and provided by the Parliament of Canada. The right of the Provincial Legislature to make the provision contained in the 79th section of the Act now under consideration is doubtful, but inasmuch as enactments relating to fees of the Surrogate Judges have been allowed to go into operation in Ontario, and have been in operation for some years, the undersigned does not think it necessary to do more than call atten-

tion to the doubt, which exists as to the power of the Legislature to pass the enactments.

The undersigned recommends that the attention of the Lieutenant-Governor be called to these remarks.

Chap. 6. An Act to amend the Jurors Act of 1879.

Chap. 7. An Act respecting Interpleader.

Chap. 8. An Act to regulate the Fees of certain Officers and others.

Chap. 9. An Act to make provision for the Administration of Justice in the County of Dufferin.

Chap. 10. An Act to amend the Registry Act.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 11. An Act for protecting the Public Interest in Rivers, Streams and Creeks.

This Act has already been disallowed by Order of Your Excellency in Council, dated 19th May, 1881. (*See pp.* 178-195 ante).

Chap. 12. An Act to further amend the Revised Statutes respecting Mortgages and sales of personal property.

Chap. 13. An Act to amend the Act respecting the Registration of Co-partnerships and business firms.

Chap. 14. An Act to further provide for the release of Dower of married women in certain cases.

Chap. 15. An Act to amend the Law securing to wives and children the benefit of Assurances on the lives of their husbands and parents.

Chap. 16. An Act respecting the appointment of Guardians for infants.

Chap. 17. An Act to extend the powers of the Law Society of Upper Canada.

Chap. 18. An Act to extend the powers of Companies incorporated under the Joint Stock Companies Letters Patent Act.

Chap. 19. An Act for the incorporation by Letters Patent and the regulation of Timber Slide Companies.

Chap. 20. An Act to give increased stability to Mutual Fire Insurance Companies.

Chap. 21. An Act respecting Returns required from Incorporated Companies.

Chap. 22. An Act to make provision for the safety of Railway Employés and the Public.

Chap. 23. An Act respecting Aid to certain Railways.

Chap. 24. The Municipal Amendment Act, 1881.

Chap. 25. The Assessment Amendment Act, 1881.

Chap. 26. An Act respecting Snow Fences.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 27. An Act to give increased efficiency to the Laws against Illicit Selling.

The undersigned recommends that power of disallowance be not exercised with respect to this Act, but in doing so he desires to observe that some of the provisions of the Act may be held to be *ultra vires*, as an interference with the regulation of trade and commerce. Inasmuch, however, as the precise powers of the Parliament of Canada and Provincial Legislatures, respectively, over the subject matter, has not yet been defined, and as similar Legislation has on previous occasions been allowed to pass into operation, the undersigned does not think it necessary to recommend any interference with the Act.

Chap. 28. An Act to prevent the spread of the Yellows among Peach, Nectarine and other Trees.

Chap. 29.—An Act to amend the Act for the protection of Insectivorous and other Birds beneficial to Agriculture.

Chap. 30. An Act for further improving the School Law.

Chap. 31. An Act respecting the University and Colleges at Toronto.

Chap. 32. An Act to make further provision respecting the Central Prison, the Andrew Mercer Ontario Reformatory for Females, and the Industrial Refuge for Girls.

Chap. 33. An Act to amend the Act respecting the Inspection of Asylums, Hospitals, Common Gaols and Reformatories in the Province.

Chap. 34. An Act relating to the incorporation of the Village of Brocton.

Chap. 35. An Act to change the name of the Town of Clifton to that of Niagara Falls.

Chap. 36. An Act to legalize a certain By-law of the County of Frontenac and the sale of the Debentures issued thereunder.

Chap. 37. An Act to confirm certain Assessments of the City of Kingston.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 38. An Act to close part of a certain Road Allowance between the Township of Kingston and the Village of Portsmouth.

The Municipal Council of the Village of Portsmouth and the County Council of the County of Frontenac have petitioned for the disallowance of this Act, on the ground, in effect, that the road to be opened by the Ontario Government, in lieu of the road which the Act authorizes to be closed, will not be so convenient for the inhabitants of the Village as the present road. Objection is also taken to the power of the Provincial Legislature to provide for the closing up of the road. The undersigned thinks that the Legislature has power to pass the enactment, and he sees no reason to recommend the exercise of the power of disallowance on the other ground mentioned in the petition. He therefore recommends that the power of disallowance be not exercised with respect to this Act.

Chap. 39. An Act respecting the debt of the County of Lennox and Addington, and to enable the said County to consolidate the same.

Chap. 40. An Act to authorize the Corporation of the City of London to sell certain lands.

Chap. 41. An Act to authorize the Village of London East to construct and maintain Waterworks, and to incorporate said Village as a Town.

Chap. 42. An Act respecting the Village of Millpoint.

Chap. 43. An Act to organize the Municipality of Neebing.

Chap. 44. An Act respecting Water and Gas Works at Parkdale.

Chap. 45. An Act to change the name of the Village of Petersville to London West.

Chap. 46. An Act respecting the Debenture Debt of the County of Simcoe.

Chap. 47. An Act to incorporate the City of St. Thomas.

Chap. 48. An Act to consolidate the Debt of the Town of Windsor.

Chap. 49. An Act to transfer the Securities of the Anglo-Canadian Mortgage Company to the Omnium Securities Company (Limited).

Chap. 50. An Act respecting the Canada Mortgage Agency (Limited).

Chap. 51. An Act respecting the Credit-Foncier Franco-Canadien.

Chap. 52. An Act to incorporate the Federal Fire Insurance Company of Ontario.

Chap. 53. An Act respecting the Hawkeye Gold and Silver Mining Company.

Chap. 54. An Act to amend the Act incorporating Lake Scugog Marsh Lands Drainage Company.

Chap. 55. An Act respecting the Phœnix Mutual Fire Insurance Company of Ontario.

Chap. 56. An Act to change the name of the Sarnia Gas Company, to confirm a By-law of the Town of Sarnia and to extend the powers of said Company.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 57. An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company.

This Act forms the subject of a separate Report. (*See* pp. 200-201.)

Chap. 58. An Act to amend the Charter of Incorporation of the Victoria Rolling Stock Company of Ontario.

Chap. 59. An Act respecting the Waterloo County Mutual Fire Insurance Company of Ontario.

Chap. 60. An Act to incorporate the Chatham and Charing Cross Railway Company.

Chap. 61. An Act to amend the Acts relating to the Credit Valley Railway Company.

Chap. 62. An Act to extend the time for the completion of the Erie and Huron Railway.

Chap. 63. An Act respecting the Georgian Bay and Wellington Railway Company.

Chap. 64. An Act respecting the Grand Junction Railway Company.

Chap. 65. An Act respecting the Hamilton and Dundas Street Railway Company.

Chap. 66. An Act further to amend the Acts relating to the Hamilton and North-Western Railway Company.

Chap. 67. An Act respecting the Midland Railway of Canada.

Chap. 68. An Act to incorporate the Sault Ste. Marie Railway Company.

Chap. 69. An Act amalgamating the Port Dover and Lake Huron, the Stratford and Huron, and the Georgian Bay and Wellington Railway Companies as the Grand Trunk, Georgian Bay, and Lake Erie Railway Company.

Chap. 70. An Act respecting the Port Rowan and Lake Shore Railway Company.

Chap. 71. An Act to incorporate the Port Royal and Detroit River Railway Company.

Chap. 72. An Act respecting the Prince Edward County Railway Company.

Chap. 73. An Act to incorporate the St. Catharines and Niagara Central Railway Company.

Chap. 74. An Act to amend the several Acts relating to the Toronto, Grey and Bruce Railway Company.

Chap. 75. An Act respecting the Toronto and Nipissing Eastern Extension Railway Company.

Chap. 76. An Act respecting the Toronto and Ottawa Railway Company.

Chap. 77. An Act to amend the Acts respecting the Trent Valley Railway Company.

Chap. 78. An Act to incorporate the Weston and Dufferin's Creek Railway.

Chap. 79. An Act respecting the Whitby, Port Perry and Lindsay Railway Company.

Chap. 80. An Act to amend the Act respecting the Yorkville Loop Line Railway Company.

Chap. 81. An Act to enable the Trustees of congregation of the Town of Orangeville to sell certain lands.

Chap. 82. An Act to amend the Act to incorporate Knox Church.

Chap. 83. An Act to authorize the Trustees of St. Andrew's Church, Williamstown, to sell certain lands.

Chap. 84. An Act to provide for the sale of the Rectory House and lands belonging to St. John's Church, in the Township of London.

Chap. 85. An Act respecting St. Paul's Church, in the Town of Woodstock.

Chap. 86. An Act to amend the Act to incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese.

Chap. 87. An Act to incorporate the Toronto Baptist College.

Chap. 88. An Act to authorize the Trustees of the Union Church at Port Colborne, to sell certain lands.

Chap. 89. An Act to vest certain lands in the Town of Woodstock in Trustees, and to authorize a sale of the same.

Chap. 90. An Act to vest in the newly appointed Trustees of the Marriage Settlement of B. H. Dixon, the property therein comprised, and to authorize the sale and leasing thereof.

Chap. 91. An Act to authorize the Law Society of Ontario to admit Francis Hugh Eccles as a Barrister-at-Law.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 3rd April,* 1882.

The Committee of Council have had before them a Report dated 30th January, 1882, from the Minister of Justice, concurred in by Sir John Macdonald, with respect to the Acts passed by the Legislature of the Province of Ontario in the year 1881, the 44th year of Her Majesty's reign.

On the recommendation of the Minister of Justice the Committee advise that the power of disallowance be not exercised with respect to the said Acts, being Chapter 1 to Chapter 91, inclusively, save as regards Chapter 11 having been disallowed, and they further advise that the attention of the Lieutenant-Governor of Ontario be directed to the observations in the Report of the Minister of Justice, upon several of the said Acts.

Certified.

JOHN J. McGEE,
Assistant Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd March, 1882.

To His Excellency the Governor General in Council :

The undersigned has the honor to report respecting an Act passed by the Legislature of Ontario in the year 1881 (Chap. 57), intituled : "An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company."

Application for the disallowance of this Act was made by the Company and by certain property holders, who claim that their interests were prejudicially affected by the provisions of the Act.

The undersigned was attended by Counsel for those petitioning for the disallowance, as well as for those opposed to the disallowance, and the various questions involved were fully argued before him.

After a full consideration of the matter, the undersigned is of opinion that the power of disallowance should not be exercised with respect to the Act, and he therefore recommends that it be left to its operation.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March,* 1882.

The Committee of Council have had before them a Report dated 2nd March, 1882, from the Minister of Justice, with respect to an Act passed by the Legislature of

Ontario, in the year 1881, being Chap. 57, 44th Victoria, intituled: "An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company."

On the recommendation of the Minister of Justice the Committee advise that the power of disallowance be not exercised with respect to the said Act, and, therefore, that it be left to its operation.

Certified.

J. O. COTÉ,
Clerk Privy Council.

ONTARIO, 45TH VICTORIA, 1882.

3RD SESSION—4TH PARLIAMENT.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th September,* 1882.

On a Report dated 28th April, 1882, from the Minister of Justice, with respect to an Act passed by the Legislature of the Province of Ontario, at its last Session (Chapter 14), intituled: "An Act for protecting the Public Interest in Rivers, Streams and Creeks;"

The Minister states that in the Session of the same Legislature held in the year 1881 an Act similar in every respect was passed, and on the 19th day of May, 1881, such Act was disallowed by Order of Your Excellency in Council.

The Minister recommends, that inasmuch as the Act passed at the last Session of the Legislature is in every respect the same as that of the previous Session, it be disallowed.

The Committee advise that the Act be disallowed accordingly.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

NOTE.—The report of the Minister of Justice upon which the above Order in Council was based, has been mislaid, and cannot be found. The substance of it has, however, been embodied in the above Order in Council.

Copy of Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Wednesday, 20th September, 1882.

PRESENT:

The Honorable Sir William Johnston Ritchie, Knight,
The Deputy of the Governor General in Council:

Whereas, the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province, did, on the 10th day of March, 1882, pass an Act, which has been transmitted, intituled as follows, viz.: "An Act for protecting the Public Interest in Rivers, Streams and Creeks;"

And whereas the said Act has been laid before the Deputy of the Governor General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed;

The Honorable the Deputy of His Excellency the Governor General has thereupon this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) JOHN J. McGEE,
Clerk Queen's Privy Council, Canada.

I, Sir William Johnston Ritchie, Knight, Deputy of the Governor General o Canada, do hereby certify that the Act passed by the Legislature of Ontario, the 10th day of March, 1882, intituled: "An Act for protecting the Public Interest in Rivers, Streams and Creeks," was received by His Excellency the Governor General on the 17th day of March, A.D. 1882.

Given under my hand and seal this 20th day of September, A.D. 1882.

(Signed) W. J. RITCHIE,
Deputy Governor.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Government in Council on the 5th of January,* 1883.

On a Report dated 22nd of December, 1882, from the Minister of Justice, stating that he has had under consideration a Despatch from the Lieutenant-Governor of Ontario, requesting to be furnished with a copy of the Report of the Minister of Justice on the disallowance of an Act of the Legislature of the Province of Ontario, passed last Session, entitled: "An Act for protecting the Public Interest in Rivers, Streams and Creeks;"

The Minister observes that such Reports have been furnished, upon request, in previous instances, and he recommends that a copy of the Report now asked for be sent to the Lieutenant-Governor.

The Committee submit the above recommendation for Your Excellency's approval.

JOHN J. McGEE,
Clerk Privy Council.

NOTE.—Copy of the Report of the Minister of Justice referred to above, has been mislaid and cannot be found. The substance of it has, however, been embodied in the above Order in Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 12th February, 1883.

To His Excellency the Governor General in Council:

Having had under consideration the Acts passed by the Legislature of Ontario in the Session of 1882, the undersigned observes:

1. That by section 4, Chapter 10, "An Act for the removal of certain defects in the Law of Evidence," it is provided that parties to any proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in such proceeding.

This provision should be limited to civil proceedings instituted in consequence of adultery.

2. By Chapter 12, "An Act respecting the Restitution of Stolen Goods," it is provided that in case the Counsel for the Crown intimates that the Crown does not intend to proceed upon any charge in respect of the property so found in the prisoner's possession, the Judge before whom the prisoner was convicted, may, upon the application of the prosecutor or of any other person claiming the property, summarily try, at the same sitting of the Court or at any subsequent time, the right of the prisoner and of the claimant to the said property, &c. As the Judge would probably, in most cases, have to find the prisoner guilty of a crime, before ordering restitution, the authority of the Legislature to pass this Act is not free from doubt.

3. By the seventh sub-section of the second section of Chapter 17, "An Act to confer additional powers upon Joint Stock Companies," it is provided that where no special arrangement is made in regard to the rate of interest to be allowed on deposits, the rate shall be 3 per cent.

Provisions relating to interest are found in several other Acts of the Session. By chapters 39 (s. 4), 41 (s. 4), 48 (s. 4) and 53 (s. 3), the several Corporations to which the Acts relate, are authorized to issue debentures to bear interest at a rate not exceeding 6 per cent.

By Chapters 50 (s. 17) and 74 (s. 2), authority is given to pay any rate of interest deemed advisable. The Legislature having authority to authorize the issue of debentures, it would follow probably, that the Corporations could issue them bearing any lawful rate of interest the corporations deemed advisable.

It might well be that the Legislature would not authorize the issue of debentures, unless a limitation was placed upon the rate of interest, and that it has authority to declare this limitation within lawful rates. But it is submitted that it has no power either to fix a rate where no contract exists, or to fix a rate in excess of the lawful rate. To test the respective powers of Parliament and the Legislature in this respect, regard must be had to what Parliament may do, as well as to what it has done. Parliament could, if it thought best so to do, declare that no greater rate of interest than 5 per cent. could be taken or given. If that were done all the Acts referred to would be objectionable.

Before leaving Chapter 17 it is proper to observe that the propriety of the Legislature enacting, as is done in the 13th section, that an offender, "besides being subject to such criminal punishment as is authorized for his offence," shall be civilly liable, is at least doubtful.

4. Chapter 23, "An Act to amend the Municipal Act."

By section 12 authority is given to the Councils of cities, towns and incorporated villages, to pass by-laws for appointing Inspectors and providing for the inspection of milk, meat, poultry, fish and other natural products offered for sale for human food or drink, whether on the streets, or in public places, or in shops.

Those provisions to some extent conflict with the powers of Parliament to legislate in regard to the regulation of trade and commerce. Parliament has already legislated in regard to the inspection of certain articles mentioned in this section, (sec. 37 Vic., Chap. 45).

5. By sec. 15, Chap. 50, "An Act to incorporate the Galt Junction Railway Company," it is provided that aliens as well as British subjects and whether resident in this Province or elsewhere may be shareholders in this Company. The same provision is found in the following Acts now under consideration, viz:—Chaps. 52 (sec. 15), 57 (sec. 12), 58 (sec. 12), 60 (sec. 21), 67 (sec. 10) and 69 (sec. 13).

This provision is not objectionable in itself, but only in respect of the fact that it is legislation in regard to aliens. It purports to affect their status and to remove a disability. For similar legislation by Parliament, see 44 Vic, Chap. 13, not yet brought into force. It should be observed, however, that Acts containing provisions similar to those found in sec. 15 of Chap. 50 referred to, have been allowed to go into operation without comment. Neither is there, in the opinion of the undersigned, any objection to leaving them, as well as the other Acts referred to, to be dealt with by the Courts.

It is therefore recommended that in case these observations are approved of, they be communicated to the Lieutenant-Governor of Ontario for the information of his Government, and for such action as they shall think proper.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March*, 1883.

On a Report dated the 12th February, 1883, from the Minister of Justice, stating that he has had under consideration certain of the Acts passed by the Legislature of Ontario in the year 1882, upon which he deemed it expedient to make a special Report:

The Minister recommends, for the reasons mentioned in his Report, hereunto attached, that a Despatch be forwarded to the Lieutenant-Governor of Ontario, communicating the observations of the Minister of Justice for the information of his Government, and for such action as they shall think proper.

The Committee concur in the foregoing Report, and submit the same for Your Excellency's approval.

JOHN J. McGEE.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General in Council:

The undersigned having had under consideration the Acts of the Legislature of Ontario, passed in the Session of 1882, begs leave to report thereon.

Chap. 14. An Act for protecting the public interest in Rivers, Streams and Creeks, was disallowed by Order in Council passed on the 20th day of September last.

Chap. 87. An Act respecting St. Paul's Church in the Town of Woodstock, is reserved for a separate Report.

It is recommended that the remaining Acts, the Titles and Chapters of which are hereinafter enumerated, be left to their operation; but in making this recommendation the undersigned has the honor to submit for consideration, a separate Report in regard to several of the said Acts.

Chap. 1. An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty-two, and for other purposes therein mentioned.

Chap. 2. An Act respecting the sale of Lands in Algoma for Government Taxes.

Chap. 3. An Act respecting the Upper Canada Land Improvement Fund.

Chap. 4. An Act to amend the Agricultural and Arts Act.

Chap. 5. An Act to establish a Bureau of Industries.

Chap. 6. An Act respecting the jurisdiction of the Court of Appeal.

Chap. 7. An Act relating to Division Courts in the Districts of Nipissing, Muskoka, Parry Sound and Thunder Bay, and to amend the Division Courts Act.

Chap. 8. An Act to amend the Jurors' Act, and the Jurors' Act of 1879.

Chap. 9. An Act to amend the Law of Newspaper Libel.

Chap. 10. An Act for the removal of certain defects in the Law of Evidence.

Chap. 11. An Act to make provision in regard to certain Legal Matters.

Chap. 12. An Act respecting the Restitution of Stolen Goods.

Chap. 13. An Act to amend the Act respecting Ferries.

Chap. 15. An Act to make further provision respecting the Lien of Mechanics.

Chap. 16. An Act to amend the Act respecting the rights and liabilities of Innkeepers.

Chap. 17. An Act to confer additional powers upon Joint Stock Companies.

Chap. 18. An Act to extend the powers of Companies for supplying Cities, Towns and Villages with Gas and Water.

Chap. 19. An Act respecting Companies for supplying Electricity for the purposes of Light, Heat and Power.

Chap. 20. An Act to extend the application of the Fire Insurance Policy Act.

Chap. 21. An Act to provide for the Crossing of Railways by Streets, Drains and Water Mains.

Chap. 22. An Act to provide for the Establishment of Free Libraries.

Chap. 23. An Act to amend the Municipal Act.

Chap. 24. An Act respecting Market Fees.

Chap. 25. An Act to provide for the construction of Waterworks by Cities, Towns and Villages.

Chap. 26. An Act to make further provisions for the construction of Drainage Works by Municipalities.

Chap. 27. An Act respecting unexpended Moneys under the Municipal Loan Fund Settlement.

Chap. 28. An Act to amend Assessment Act.

Chap. 29. An Act to establish a Provincial Board of Health, and to give increased powers to Local Boards of Health.

Chap. 30. An Act respecting certain amendments in the School Law.

Chap. 31. An Act to amend the Act respecting the property of Religious Institutions.

Chap. 32. An Act to amend the Act respecting Lunatic Asylums and the Custody of Insane Persons.

Chap. 33. An Act to provide for the division of the Township of Grimsby.

Chap. 34. An Act respecting the Debenture Debt of the City of Guelph.

Chap. 35. An Act to establish and confirm certain Astronomical Bearings as the true courses of Side Lines in the Township of Harvey.

Chap. 36. An Act to enable the Agricultural Societies of the Electoral Divisions of East and West Kent to sell certain lands.

Chap. 37. An Act to legalize, confirm and declare valid certain By-Laws of the Corporation of the City of Kingston.

Chap. 38. An Act to separate the Township of East Luther from the County of Wellington, and to annex the same to the County of Dufferin.

Chap. 39. An Act to consolidate the Debenture Debt of the Town of Owen Sound.

Chap. 40. An Act to incorporate the Town of Penetanguishene.

Chap. 41. An Act to enable the Corporation of the Town of Port Hope to incur liability for the construction and extension of Waterworks, and for other purposes.

Chap. 42. An Act to declare and confirm the title of the Corporation of the Village of Southampton in and to certain lands.

Chap. 43. An Act to vest certain property in the Stratford High School Board.

Chap. 44. An Act respecting a certain Assessment for local improvements in the Town of Strathroy.

Chap. 45. An Act to extend and define the limits of the Town of Trenton.

Chap. 46. An Act respecting By-law number two hundred and seventeen of the County of Wellington.

Chap. 47. An Act respecting the old Burying Ground of the Town of Wingham.

Chap. 48. An Act to consolidate the General Debenture Debt of the Village of Yorkville.

Chap. 49. An Act respecting the Erie and Huron Railway Company.

Chap. 50. An Act to incorporate the Galt Junction Railway Company.

Chap. 51. An Act respecting the Leamington and St. Clair Railway Company.

Chap. 52. An Act to incorporate the London Junction Railway Company.

Chap. 53. An Act respecting the Debenture Debt of the London and Port Stanley Railway Company.

Chap. 54. An Act to incorporate the Manitoulin Island Railway Company.

Chap. 55. An Act to incorporate the Medorite Tramway Company.

Chap. 56. An Act respecting the Midland Railway of Canada.

Chap. 57. An Act to incorporate the Mississippi Valley Railway Company.

Chap. 58. An Act to incorporate the Northern and North-Western Junction Railway Company.

Chap. 59. An Act to amend the Act to incorporate the Port Rowan and Lake Shore Company.

Chap. 60. An Act to incorporate the Prescott and Glengarry County Junction Railway Company.

Chap. 61. An Act respecting the Prince Edward County Railway Company.

Chap. 62. An Act amending the Act incorporating the St. Catharines and Niagara Central Railway Company.

Chap. 63. An Act to amend the Acts relating to the St. Catharines Street Railway Company.

Chap. 64. An Act to amend the Act respecting the St. Mary's Credit Valley and Huron Railway Company.

Chap. 65. An Act to amend the Act incorporating the Saugeen Valley Railway Company.

Chap. 66. An Act to incorporate the Toronto High Park and Western Tramway Company (Limited.)

Chap. 67. An Act to consolidate the Toronto and Nipissing Railway Company, the Whitby, Port Perry and Lindsay Railway Company, the Victoria Railway Company, the Toronto and Ottawa Railway Company, the Grand Junction Railway Company, and the Midland Railway of Canada.

Chap. 68. An Act respecting the Toronto and Nipissing Railway Company.

Chap. 69. An Act to incorporate the Western Counties Railway Company.

Chap. 70. An Act respecting the Weston and Duffin's Creek Railway.

Chap. 71. An Act to confer power upon the Bell Telephone Company of Canada.

Chap. 72. An Act to amend the Acts relating to the Canada Landed Credit Company.

Chap. 73. An Act to amend the present Acts of Incorporation of the City Light and Heating Company of London.

Chap. 74. An Act to authorize the Gananoque Water Power Company to issue Debentures.

Chap. 75. An Act respecting the Gatling Gold and Silver Mining Company.

Chap. 76. An Act respecting the Hawkeye Gold and Silver Mining Company.

Chap. 77. An Act to amend the Act incorporating the Midland Land Company.

Chap. 78. An Act to amend the Charter of the Ontario Trust Company.

Chap. 79. An Act to amend the Act of Incorporation of the Rossin House Hotel Company.

Chap. 80. An Act to amend the Act incorporating the Toronto House-building Association.

Chap. 81. An Act to incorporate the Elgin College.

Chap. 82. An Act to authorize Gilmour and Company to make certain improvements in the River Moira.

Chap. 83. An Act respecting the Ladies' Christian Association of St. Catharines.

Chap. 84. An Act to enable the Trustees of the Methodist Episcopal Congregation, of the Town of Orangeville, to sell certain Lands.

Chap. 85. An Act to further amend the Act to incorporate the Ottawa Ladies' College.

Chap. 86. An Act respecting a Public Hospital and Home for the Friendless for the City of Belleville.

Chap. 88. An Act respecting the Wesleyan Female College of Hamilton, Ontario.

Chap. 89. An Act to amend the Act incorporating the Western University of London, Ontario.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March,* 1883.

The Committee of the Privy Council have had before them a Report, hereunto attached, dated 13th February, 1883, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Ontario in the year 1882, the 45th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapter 1 to Chapter 89, inclusively, save as regards Chapter 14, which was disallowed by His Excellency the Governor General in Council, and Chapter 87, which has been reported on, and several of the said Acts upon which the Minister of Justice, whilst recommending their being left to their operation, has deemed it expedient to make a special Report.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General in Council.

The undersigned, having had under consideration the petition of the Churchwardens of St. Paul's Church, Woodstock, Ontario, praying that an Act of the Ontario Legislature, passed in the Session of 1882, respecting the church, be disallowed, begs to report as follows :—

The Act in question is Chapter 87, intituled: "An Act respecting St. Paul's Church in the Town of Woodstock."

The grounds of objection taken by the churchwardens are as follows, viz. :—

1. "Because the said Act is *ultra vires* the Legislature of Ontario, inasmuch as the Dominion Parliament has control of all endowments on property granted under such Patents.

2. "The recital or preamble of the said Act is incorrectly set forth in describing the Patent dated 16th January, 1836.

3. "The said Act recites: 'And whereas there has been commenced an action in the Chancery division of the High Court of Justice against the incorporated Synod of the Diocese of Huron, in which the boundaries of the said rectory are called in question,' thereupon the said Act interfered with parties engaged in litigation, and while such litigation was still *sub judice*, as the following extracts from the said Act show:

"'The limits of the said parish or rectory created by the said 'Patent are hereby defined to have always been,' &c., and shall be so held to be, and have been in the said Act, is contrary to sound principles of legislation, because it is *ex post facto* in operation.'"

The undersigned has no doubt that the Act is within the Legislative authority, and it is only necessary for him to consider the grounds of expediency raised by the petitioners, and while he is of opinion that the Act is objectionable in two points, namely:—

That it was passed while the matter was under the consideration of the Court, and (2) because it is *ex post facto* in its operation in the preamble of the Act.

"Whereas the matter of the said petition came on to be heard before a Committee of the said Assembly, duly constituted in that behalf, when all parties interested in the said matter were heard before the said Committee, and it was then agreed before the said Committee by all the said parties, that on the consent of the Lord Bishop of Huron being given to such petition, all opposition should be withdrawn to any subsequent legislation necessary to effect that purpose; and whereas there has been commenced an action in the Chancery division of the High Court of Justice against the incorporated Synod of the Diocese of Huron, in which the boundaries of the said rectory are called in queston; and whereas the Lord Bishop of Huron has, in writing, assented to the said limits being so defined, and the said rector, vestry and churchwardens have again petitioned to have the said boundaries so defined, and that the Act so to be passed shall apply to the said suit, and it is expedient to grant the prayer of such petition."

As against that recital, it is alleged in the petition to the Legislative Assembly of Ontario, attached to the petition now under consideration, that—

"Contrary to the opinion of the agreement come to before the Private Bills Committee, the promoters of the Bill procured His Lordship's assent to the procuring of legislation defining the limits of the said rectory, without properly representing the matters in dispute to His Lordship, prior to his assenting to the proposed legislation."

There is nothing from the Lord Bishop of Huron corroborating this, or showing that he consented to the limits as established by this Act in ignorance of the real rights of all the sureties.

In view of these facts, the undersigned recommends that the Act be left to its operation, but that a copy of the papers be transmitted to the Lieutenant-Governor of the Province of Ontario for the consideration of his Government.

In addition to the papers referred from Council in this matter, duplicates of the same papers have been transmitted to the undersigned direct, and he sends herewith these duplicates, as well as those referred to Council, so that, if this Report be approved, one set of the papers may be forwarded to the Lieutenant-Governor.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March*, 1883.

On a Report dated 13th February, 1883, from the Minister of Justice, submitting that he has had under consideration the petition of the churchwardens of St. Paul's Church, Woodstock, Ontario, praying that an Act of the Ontario Legislature, passed in the Session of 1882, being Chapter 87, intituled: "An Act respecting St. Paul's Church, in the Town of Woodstock," be disallowed:

The Minister states that the grounds of objection taken by the churchwardens are as follows, viz:—

"1. Because the said Act is *ultra vires* the Legislature of Ontario, inasmuch as the Dominion Parliament has control of all endowments or property granted under such patents.

"2. The recital or preamble of the said Act is incorrectly set forth in describing the Patent dated 16th January, 1836.

"3. The said Act recites, 'And whereas there has been commenced an action in the Chancery division of the High Court of Justice against the incorporated Synod of the Diocese of Huron, in which the boundaries of the said rectory are called in question;' therefore the said Act interfered with parties engaged in litigation, and while such litigation was still *sub judice*, as the following extracts from the said Act show.

"The limits of the said parsonage or rectory created by the said Patent are hereby defined to have always been, &c., and shall be so held to be, and have in the said Act, &c.

"4. That the legislation embodied in the said Act is contrary to sound principles of legislation because it is *ex post facto* in operation."

The Minister has no doubt that the Act is within the Legislative authority of the Legislature, and it is only necessary for him to consider the other grounds raised by the petitioners, as to which he is of opinion that the Act is objectionable in two points, namely:—

1. That it was passed while the matter was under the consideration of the Courts, and (2) because it is *ex post facto* in its operation.

In the preamble of the Act there is the following recital:—

"Whereas the matter of the said petition came on to be heard before a Committee of the said Assembly, duly constituted in that behalf; when the parties interested in the said matter were heard before the said Committee, and it was then agreed before the said Committee by all the said parties, that on the consent of the Lord Bishop of Huron being given to such petition all opposition should be withdrawn to any subsequent legislation necessary to affect that purpose, and whereas there has been commenced an action in the Chancery division of the High Court of Justice against the incorporated Synod of the Diocese of Huron, in which the boundaries of the said rectory are called into question, and whereas the Lord Bishop of Huron has, in writing, assented to the said limits being so defined, and the said rector, vestry, and churchwardens have again petitioned to have the said boundaries so defined, and that the Act so to be passed shall apply to the said suit, and it is expedient to grant the prayer of such petition."

The Minister observes that, as against that recital, it is alleged in the petition to the Legislative Assembly of Ontario, attached to the petition now under consideration:—

That "contrary to the spirit of the agreement come to before the Private Bills Committee, the promoters of the Bill procured His Lordship's assent to the procuring of Legislation defining the limits of the said rectory without properly representing the matters in dispute to His Lordship, and without reference to the opponents of the Bill, who had no opportunity of laying their views before His Lordship, prior to his assenting to the proposed Legislation."

The Minister states that there is nothing from the Lord Bishop of Huron corroborating this, or showing that he consented to the limits as established by this Act, in ignorance of the real rights of all the parties.

The Minister in view of these facts, recommends that the Act be left to its operation, but that the duplicates of the papers be transmitted to the Lieutenant-Governor of the Province of Ontario for the consideration of his Government.

The Committee concur in the foregoing Report, and the recommendation therein set forth of the Minister of Justice, and they submit the same for your Excellency's approval.

JOHN J. McGEE.
Clerk Privy Council.

ONTARIO, 46TH VICTORIA, 1882-83.

4TH SESSION—4TH LEGISLATURE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th March, 1883.

To His Excellency the Governor General in Council:

The Minister of Justice has the honor to report to Your Excellency in Council, that amongst the Acts of the Legislature of the Province of Ontario, passed at its last Session, there is one (Chap. 10) entitled: "An Act to protect the public interests in Rivers, Streams and Creeks." The Act is a transcript of one passed under the same title in the Session of 1882, and of another passed in the preceding Session of 1881, both of which have been disallowed by Order of Your Excellency in Council.

The undersigned has the honor to recommend that inasmuch as the Act hereinbefore first referred to is, in every respect, the same as those of the previous Sessions, it be disallowed.

All of which is respectfully submitted.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th March,* 1883.

On a Report dated 13th March, 1883, from the Minister of Justice, stating that amongst the Acts of the Legislature of the Province of Ontario, passed at the last Session thereof, is one entitled: "An Act to protect the public interest in Rivers,

Streams and Creeks." This Act is a transcript of one passed under the same title in the Session of 1882, and of another passed in the preceding Session, 1881, both of which have been disallowed by Order of Your Excellency in Council on the 20th September, 1882, and 9th May, 1881, respectively.

The Minister recommends that, inasmuch as the Act hereinbefore first referred to, is in every respect the same as those of the previous Sessions, it be disallowed.

The Committee advise that the Act be disallowed accordingly.

JOHN J. McGEE.
Clerk Privy Council.

Copy of Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 16th day of March, 1883.

PRESENT:

His Excellency the Governor General in Council.

Whereas the Lieutenant-Governor of the Province of Ontario, with the Legislative Assembly of that Province did, on the 1st day of February, 1883, pass an Act which has been transmitted, entitled as follows, viz.:—

Chap. 10. "An Act for protecting the Public Interests in Rivers, Streams and Creeks;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of Ontario, the 1st day of February, 1883, entitled: "An Act for protecting the Public Interest in Rivers, Streams and Creeks," was received by me on the 12th day of March, A.D. 1883.

Given under my hand and seal this 16th day of March, 1883.

LORNE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th March, 1884.

To His Excellency the Governor General in Council:

The undersigned begs leave to submit his Report on the Acts passed by the Legislature of the Province of Ontario in the Session held in the year 1882-83.

Chap. 10. An Act for protecting the Public Interests in Rivers, Streams and Creeks, was disallowed by Order in Council of the 16th March, 1883.

Chap. 17. An Act to amend the Act respecting Market Fees. A letter was received from Mr. F. A. Knapp, Prescott, complaining that the provisions of this Act declaring that Municipalities shall have the power to sell, assign or lease its market fees, were declared to have been operative from the 1st day of April, 1882, and that by reason of this, an action to quash a by-law of the Town of Prescott had been interfered with.

In the opinion of the undersigned the Act is clearly within the Legislative authority, and he recommends that it be left to its operation.

Chap. 18. An Act to consolidate the Acts respecting Municipal Institutions.

This Act is, for the most part, a consolidation of the existing law. In it, however, as in other Acts of the same class, are some provisions relating to the powers of Councils to pass by-laws as to which it is at least doubtful whether the Legislature has not exceeded its powers.

Some of the provisions relating to harbors (s. 482) and to public morals (s. 490) afford instances of the class of provisions referred to. The Acts containing these provisions have, however, in the past been left to their operation, and the undersigned recommends that the power of disallowance be not exercised with respect to this Act.

Having carefully considered the remaining Acts, the titles of which are given in the annexed schedule, the undersigned recommends that they be left to their operation.

(Signed) A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Chap. 1. An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government, for the year one thousand eight hundred and eighty-three, and for other purposes therein mentioned.

Chap. 2. An Act to make further provision respecting Elections to the Legislative Assembly.

Chap. 3. An Act to provide for the final settlement of the Common School Fund.

Chap. 4. An Act to correct a clerical error in the Act of last Session respecting the Sale of Lands in Algoma for Government Taxes.

Chap. 5. An Act to establish Public Creameries.

Chap. 6. An Act for the better Administration of Justice in this Province.

Chap. 7. An Act to consolidate and amend the Acts respecting Jurors and Juries.

Chap. 8. An Act to amend the law respecting the Administration of Justice in Criminal Matters.

Chap. 9. An Act to amend the Act respecting Trustees and Executors and the administration of Estates.

Chap. 11. An Act to amend the revised Act respecting the Solemnization of Marriages.

Chap. 12. An Act respecting the Release of Dower in certain cases.

Chap. 13. An Act to amend the Act respecting Joint Stock Companies for the construction or purchase of roads and other works.

Chap. 14. An Act to amend the Act respecting Joint Stock Companies for supplying Cities, Towns and Villages with gas and water.

Chap. 15. An Act relating to the law of Insurance.

Chap. 16. An Act to authorize the construction of Street Railways.

Chap. 19. An Act to facilitate the establishment of Free Libraries.

Chap. 20. An Act to provide for the establishment and maintenance of Public Parks in Cities and Towns.

Chap. 21. An Act to authorize Cities, Towns and Villages to provide gas and other means of lighting and heating.

Chap. 22. An Act to provide for the performance of Statute Labor in unincorporated Townships.

Chap. 23. An Act respecting appeals to Stipendiary Magistrates from Municipal Assessment in Algoma, Muskoka, Parry Sound, Nipissing and Thunder Bay.

Chap. 24. An Act to amend the Assessment Act.

Chap. 25. An Act to amend the Act respecting the sale of Fermented or Spirituous Liquors.

Chap. 26. An Act to encourage the Planting and Growing of Trees.

Chap. 27. An Act respecting Ditches and Watercourses.

Chap. 28. An Act respecting Private Asylums for Insane Persons and Inebriates.

Chap. 29. An Act respecting Industrial Schools.

Chap. 30. An Act respecting the office of Inspector of Prisons and Public Charities, and respecting persons committed as Lunatics.

Chap. 31. An Act to enable the Corporation of the Town of Barrie to close up a portion of Dunlop street, in the said Town.

Chap. 32. An Act to legalize a certain By-law of the Town of Collingwood.

Chap. 33. An Act to consolidate the General Debenture Debt of the Village of Elora.

Chap. 34. An Act respecting the Debt of the City of Hamilton.

Chap. 35. An Act to amend the City of Hamilton Debenture Act, 1864.

Chap. 36. An Act to authorize the Corporation of the Town of Lindsay to sell or lease certain Lands.

Chap. 37. An Act to authorize the Corporation of the City of London to borrow one hundred and seventy-five thousand dollars, and to explain the Act respecting the Debt of the City of London.

Chap. 38. An Act respecting By-law number two hundred and fifty-nine of the Corporation of the County of Oxford.

Chap. 39. An Act to legalize, confirm and declare valid certain By-laws of the Corporation of the Village of Renfrew.

Chap. 40. An Act to authorize the Township of Rochester to borrow certain moneys.

Chap. 41. An Act to legalize certain By-laws of the Town of Sarnia, and for other purposes.

Chap. 42. An Act to amend "An Act relating to the Municipality of Shuniah and the Tax imposed on Lands in the District of Algoma."

Chap. 43. An Act respecting the City of Toronto.

Chap. 44. An Act to empower the City of Toronto to institute an issue of Corporation Stock.

Chap. 45. An Act respecting the City of Toronto and the Village of Parkdale.

Chap. 46. An Act respecting the City of Toronto and the Village of Yorkville, and other matters.

Chap. 47. An Act respecting the Town of Woodstock and the Grand Trunk Railway Company of Canada.

Chap. 48. An Act to incorporate the Brighton, Warkworth and Norwood Railway Company.

Chap. 49. An Act to incorporate the Cornwall Junction Railway Company.

Chap. 50. An Act respecting the Credit Valley Railway Company.

Chap. 51. An Act to incorporate the Eastern Ontario Railway Company.

Chap. 52. An Act respecting the Erie and Huron Railway Company.

Chap. 53. An Act respecting the London Junction Railway Campany.

Chap. 54. An Act respecting certain aid to the London Junction Railway Company.

Chap. 55. An Act respecting the Napanee, Tamworth and Quebec Railway Company, and a certain bonus granted to the said Company by the Town of Napanee.

Chap. 56. An Act to incorporate the Thunder Bay Colonization Railway Company.

Chap. 57. An Act respecting the Waterloo, Wellington and Georgian Bay Railway Company.

Chap. 58. An Act amalgamating the Standard Fire Insurance Company and the Alliance Insurance Company as the Standard Fire Insurance Company.

Chap. 59. An Act respecting the City Gas Company of London and the London Gas Light Company.

Chap. 60. An Act to amend the Acts respecting the Lake Scugog Marsh Lands Drainage Company.

Chap. 61. An Act relating to the Commercial Travellers' Association of Canada.

Chap. 62. An Act to incorporate the Institute of Accountants of Ontario.

Chap. 63. An Act to incorporate the Dean and Chapter of the Cathedral of St. Alban the Martyr, Toronto.

Chap. 64. An Act relating to the Roman Catholic Episcopal Corporation of Ottawa.

Chap. 65. An Act to incorporate the Roman Catholic Bishop of the Diocese of Peterborough, in Ontario, Canada.

Chap. 66. An Act to amend the Act to incorporate the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese.

Chap. 67. An Act respecting Victoria College at Cobourg.

Chap. 68. An Act to change the name of the "Canadian Literary Institute" to "Woodstock College."

Chap. 69. An Act to empower the Trustees under the Will of the late John Corry Wilson Daly, to sell certain lands, and to sell or make division of certain goods.

Chap. 70. An Act to enable the Trustees and Executrix, under the Will of Robert Wilkes, to lease and sell certain Real Estate.

Chap. 71. An Act authorizing the Supreme Court of Judicature for Ontario to admit Thomas Clive Atkinson to practise as a Solicitor.

Chap. 72. An Act to authorize the Supreme Court of Judicature for Ontario to admit George William Ross to practise as a Solicitor.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd June*, 1884.

The Committee of the Privy Council have had before them a Report, herewith, dated 15th March, 1884, from the Minister of Justice, upon the Acts passed by the Legislature of the Province of Ontario, in the Session held in the year 1882-83, being the 46th year of Her Majesty's reign.

The Committee, on the recommendation of the Minister of Justice, advise that the said Acts, Chapters 1 to 72 inclusive, be left to their operation, save and except as to Chapter 10, intituled: "An Act for protecting the Public Interest in Rivers, Streams and Creeks," which was disallowed by Order in Council of the 16th of March, 1883.

The Committee further advise that the Lieutenant-Governor of Ontario be informed in accordance thereto.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

ONTARIO, 47TH VICTORIA, 1884.

1ST SESSION—5TH LEGISLATURE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th April, 1884.

To His Excellency the Governor General in Council.

The undersigned has the honor to report that he has had under consideration an Act passed at the last Session of the Legislature of Ontario, Chaptered 35, intituled: "An Act respecting License Duties."

In the preamble, after reciting the passing of the "Liquor License Act, 1883," of Canada, with special reference to the 2nd sub sections of the 7th, and of the 40th sections thereof, the contention of Ontario is stated to be, that the Legislature of the Province has exclusive authority to legislate with respect to liquor licenses and the sale of spirituous and fermented liquors, and to regulate the sale thereof, and the houses in which the same shall be sold. It is then further recited, that apart from "The Liquor License Act, 1883," the authority to impose duties upon shop, saloon, tavern and other licenses, in order to the raising of a revenue for Provincial, Local or Municipal purposes, is vested in the Legislatures of the Provinces by "The British North America Act," and that should "The Liquor License Act, 1883," notwithstanding "the contention of the Province of Ontario, be held to be valid, it becomes necessary, in order to the raising of a revenue for Provincial, Local and Municipal purposes, that a duty be imposed upon the 'licenses' which may be issued under the last mentioned Act."

The first section of the Act prescribes the duties to be paid in respect of the several classes of licenses mentioned in "The Liquor License Act, 1883;" the second section provides for the payment of these duties to License Inspectors appointed under the Ontario Liquor License Act, or where there is no inspector, into a chartered bank; the third section for the application of the revenue to be derived from the duties imposed upon the licenses; and the fourth for Municipalities increasing the duties to be levied upon such licenses.

By the fifth section it is then enacted that "the duties upon, or in respect of licenses by this Act made payable, are not, nor is any part thereof the same, or identical with the duties payable upon or in respect of licenses under the Liquor License Act of Ontario, or in any amendment thereto."

The sixth and seventh sections make very stringent provisions for the collection of the duty in case the license issues without payment thereof.

The eighth, ninth and tenth sections define certain terms used in the Act, and the eleventh is a declaration that nothing in the Act is to be taken as an admission of the validity of "The Liquor License Act, 1883," or an adoption or enactment thereof under section 94 of "The British North America Act."

If the undersigned could come to the conclusion that the Act under consideration was passed with the single object of raising a revenue from licenses issued under the provisions of "The Liquor License Act, 1883," he would see no reason for its disallowance.

It is to be observed, however, that by the Revised Statutes of Ontario, Chapter 181, as amended by 44th Victoria, Chapter 28, and 47th Victoria, Chapter 34, provision is

made for raising a revenue from liquor licenses. The tariff by these Acts established, may fairly be taken as, in the opinion of the Legislature of Ontario, sufficient for revenue purposes.

The Dominion Liquor License Act of 1883 recognizes the duties so imposed, and no license under the latter Act can be issued without payment thereof.

While the decision of the Judicial Committee in the case of Hodge *vs.* The Queen has established the validity of the Ontario Acts, as Police or Municipal regulations, no decision has been obtained as to the competency of the Parliament of Canada to enact "The Liquor License Act, 1883," or with respect to the validity of the Ontario License Acts, in view of the general laws enacted by Parliament. There has been and there is no disposition on the part of Parliament or of the Government of Canada to do more than seek, in a legal and constitutional way, a settlement of the questions arising from the conflict between Dominion and Provincial Legislation.

This is evident from the fact that, while the Act under discussion was assented to on the twenty-fifth day of March last, the House of Commons on the eighteenth day of that month, by Resolution, declared that it was expedient "that the question of the competency of Parliament to pass the 'Liquor License Act, 1883,' should be submitted, with all convenient speed, to the Supreme Court of Canada, or to the Judicial Committee of the Privy Council, or to both."

The real object of the Act under consideration is, in the opinion of the undersigned, disclosed by the fifth section above recited, by which the duties payable in respect of licenses issued under the Dominion Act are declared not to be the same "or identical with the duties payable upon or in respect of licenses under the Liquor License Act of Ontario, or any amendments thereto," and are, therefore, cumulative thereto.

Apparently the real object aimed at in this provision is, if possible, to make the "Liquor License Act, 1883," inoperative, by imposing a heavy and cumulative tax on persons taking out licenses under it, pending the settlement of the questions, arising from the conflict of Legislation before referred to.

From this additional and unnecessary tax, it is the duty of the Government to protect those who obey the laws enacted by Parliament, and the only effective means of accomplishing this, is to disallow the Act under consideration.

The undersigned, therefore, respectfully recommends that the Act of the Legislature of Ontario, passed during the Session of 1884, Chaptered 35, and intituled: "An Act respecting License Duties," be disallowed.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 30*th April,* 1884.

The Committee of the Privy Council have had under consideration a Report, herewith, dated 29th April, 1884, from the Minister of Justice, in which he recommends, for the reasons therein set forth, that the following Act passed by the Legislature of Ontario at the last Session thereof, Chaptered 35, and intituled: "An Act respecting License Duties," should be disallowed.

The Committee concur in the said Report and advise that the said Act be disallowed accordingly, and that a copy of this Minute and of annexed Report be forwarded to the Lieutenant-Governor of the Province of Ontario, for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

Proclamation disallowing the abovementioned Act.

GOVERNMENT HOUSE, OTTAWA, Wednesday, 30th day of April, 1884.

PRESENT:

His Excellency the Governor General in Council.

Whereas the Lieutenant-Governor of Ontario, with the Legislative Assembly of that Province, did, on the 25th day of March, 1884, pass an Act intituled: "An Act respecting License Duties."

And whereas the said Act has been laid before the Governor General in Council, together with a Report of the Minister of Justice, recommending that the said Act should be disallowed:

His Excellency the Governor General has therefore this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Ontario, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) JOHN J. McGEE.
Clerk Privy Council.

I, Henry Charles Keith Petty Fitzmaurice, Marquis of Lansdowne, Governor General of Canada, do hereby certify that the undermentioned Act, passed by the Legislature of the Province of Ontario on the 25th day of March, 1884, intituled: "An Act respecting License Duties," was received by me on the 24th day of April, 1884.

Given under my hand and seal this 30th day of April, 1884.

(Signed) LANSDOWNE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th January, 1885.

To His Excellency the Governor General in Council.

The undersigned, to whom was referred the Despatch of the 24th October last from the Lieutenant-Governor of Ontario to the Secretary of State, calling attention to Chapter 39, intituled: "The Ontario Factories Act, 1884," and suggesting that the question, as to whether the Act is within the competency of the Legislature of Ontario, be referred be the Supreme Court for decision, begs leave to report:—

That having considered the Act carefully, he does not propose to recommend any Executive interference in respect thereto, but that the Act be allowed to take its course. He does not, however, think it advisable to refer the question of the authority of the Legislature to pass the Act to the Supreme Court, but that it would be better to leave the Act to be tested in the ordinary way, and by the ordinary tribunals of the country.

If this Report is approved of, the undersigned respectfully recommends that the substance of it be communicated to the Lieutenant-Governor of Ontario.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th February,* 1885.

The Committee of the Privy Council have had under consideration a Despatch dated 24th October, 1884, from the Lieutenant-Governor of Ontario, calling attention to the Ontario Factories Act, 1884, and suggesting that the question as to whether the Act is within the competency of the Legislature of Ontario, be referred to the Supreme Court for decision.

The Minister of Justice, to whom the Despatch was referred, states that having considered the Act carefully, he does not propose to recommend any Executive interference in respect thereto, but that the Act be allowed to take its course. He does not, however, think it advisable to refer the question of the authority of the Legislature to pass the Act to the Supreme Court, but that it would be better to leave the Act to be tested in the ordinary way, and by the ordinary tribunals of the country.

The Committee concur in the Report of the Minister of Justice, and they advise that a Despatch containing the substance of this minute, if approved, be communicated to the Lieutenant-Governor of Ontario.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th April, 1885.

To His Excellency the Governor General in Council.

The undersigned has the honor to report upon the Acts passed by the Legislature of the Province of Ontario during the Session of 1884.

Having carefully considered the Acts mentioned in the schedule hereto, the undersigned respectfully recommends that they be left to their operation.

Cap. 32. The Municipal Amendment Act, 1884.

By the 12th section of this Act power is given to the Council of every city, town and incorporated village to pass by-laws—

"For regulating and compelling the removal from any public wharf, dock, slip, drain, sewer, shore, bay, river, harbor or water, of all sunken, grounded or wrecked vessels, barges, craft, cribs, rafts, logs or other obstructions or incumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same."

By the Act of Parliament, 37th Vic., Cap. 29, as amended by 43rd Vic., Cap. 30, the Minister of Marine and Fisheries may, with the authority of the Governor in Council, remove or destroy any obstruction caused by the wreck, sinking, lying ashore or grounding of any vessel in any river, lake, bay, creek, harbor or other navigable water over which the jurisdiction of Parliament extends, and by "The British North America Act, 1867," the Parliament of Canada has exclusive Legislative authority in respect of navigation and shipping. So far, therefore, as the power is to be exercised in navigable waters, it is one, in the opinion of the undersigned, to be exercised by virtue of the authority of the Parliament of Canada, and not of the Legislature of a Province. As, however, "The Municipal Act, 1884," contains other important provisions within the Legislative authority of the Legislature, the undersigned recommends that it be left to its operation, but that the attention of the Lieutenant-Governor be called to the provisions of the 12th section.

Cap. 34. An Act to improve the Liquor License Laws.

As the question of the relative powers of Parliament and the Legislature over this subject is still unsettled, the undersigned recommends that the power of disallowance be not exercised in respect of this Act.

Cap. 35. An Act respecting License Duties.

This Act was disallowed on the 30th day of April, 1884.

Cap. 39. An Act for the protection of persons employed in Factories.

In an approved Report of the 20th day of January last, the undersigned stated, that having carefully considered this Act he had come to the conclusion that it should be left to its operation.

(Signed) A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Cap. 1. An Act for granting to Her Majesty certain sums of money to defray the expenses of Civil Government for the year one thousand eight hundred and eighty-four, and for other purposes therein mentioned.

Cap. 2. An Act respecting the Territory in dispute between this Province and the Province of Manitoba.

Cap. 3. An Act to define the limits of the District of Algoma, Muskoka, Parry Sound and Nipissing, and of the County of Renfrew.

Cap. 4. An Act for the amendment of the Election Law and for the better prevention of corrupt and illegal practices at Elections to the Legislative Assembly.

Cap. 5. An Act for the relief of certain Deputy Returning Officers.

Cap. 6. An Act respecting Securities vested in the Treasurer of the Province.

Cap. 7. An Act to enable Free Grant Settlers to obtain further locations.

Cap. 8. An Act to amend the Ontario Drainage Act.

Cap. 9. An Act to amend the Division Courts Act.

Cap. 10. An Act for further improving the Administration of the Law.

Cap. 11. An Act respecting the distribution of Estates of which the Attorney-General is Administrator or Trustee.

Cap. 12. An Act to amend the Act respecting Coroners' Inquests.

Cap. 13. An Act to amend the Act respecting the expenditure of County Funds in certain cases.

Cap. 14. An Act respecting the District of Algoma and Thunder Bay.

Cap. 15. An Act to amend an Act respecting the Administration of Justice in Unorganized Tracts.

Cap. 16. An Act respecting proceedings on Mortgages.

Cap. 17. An Act for protecting the public interests in Rivers, Streams and Creeks.

Cap. 18. An Act to amend the Mechanics' Lien Act.

Cap. 19. An Act respecting the property of Married Women.

Cap. 20. An Act to secure to Wives and Children the benefits of Life Insurance.

Cap. 21. An Act to extend the provisions of the Revised Statute respecting Master and Servant.

Cap. 22. An Act respecting Pharmacy.

Cap. 23. An Act to amend the Act respecting Pawnbrokers and Pawnbroking.

Cap. 24. An Act to amend the Acts relating to Road Companies.

Cap. 25. An Act to amend the Timber Slide Companies Act of 1881.

Cap. 26. An Act to amend the Act respecting the supplying of Gas and Water.

Cap. 27. An Act respecting Co-operative Associations, Joint Stock Companies, Benevolent Societies and other Corporations.

Cap. 28. An Act respecting Supplementary Licenses to Mutual Insurance Companies.

Cap. 29. An Act respecting Building Societies.

Cap. 30. An Act to amend the Railway Act of Ontario.

Cap. 31. An Act to authorize the substitution of terminable Annuities for Railway Aid Certificates.

Cap. 33. An Act to amend the Revised Statute respecting Municipal Institutions in Algoma, Muskoka, Parry Sound, Nipissing and Thunder Bay.

Cap. 36. An Act to amend "The Ontario Tree Planting Act, 1883."

Cap. 37. An Act to prevent the spread of Noxious Weeds, and of diseases affecting Fruit Trees.

Cap. 38. An Act to make further provisions respecting the Public Health.

Cap. 40. An Act to amend the Act to impose a Tax on Dogs, and for the protection of Sheep.

Cap. 41. An Act to prevent the spread of Contagious Diseases among Horses and other Domestic Animals.

Cap. 42. An Act to further amend the Line Fences Act.

Cap. 43. An Act to amend the Act respecting Ditches and Watercourses.

Cap. 44. An Act to amend the Act respecting Public, Separate and High Schools.

Cap. 45. An Act to amend the Act respecting the University of Toronto.

Cap. 46. An Act to amend and consolidate the Acts respecting Industrial Schools.

Cap. 47. An Act to empower the Municipality of the Village of Brockton to make Special Assessments, and for other purposes.

Cap. 48. An Act to authorize the Township of Colchester South to borrow certain moneys.

Cap. 49. An Act to authorize the Town of Collingwood to issue certain Debentures.

Cap. 50. An Act to declare valid a certain Survey of part of the Town of Cornwall.

Cap. 51. An Act to confirm a certain By-law of the Corporation of the City of Kingston.

Cap. 52. An Act respecting the Debt of the County of Middlesex.

Cap. 53. An Act relating to the Municipality of Neebing.

Cap. 54. An Act to authorize the Corporation of the Town of Orangeville to purchase land for a Post Office site.

Cap. 55. An Act to consolidate the Debt of the Town of Palmerston.

Cap. 56. An Act to empower the Municipality of the Village of Parkdale to make special Assessments, and for other purposes.

Cap. 57. An Act to incorporate the Town of Port Arthur.

Cap. 58. An Act to authorize the Corporation of the Town of Strathroy to purchase certain lands therein for a Public Cemetery.

Cap. 59. An Act respecting the City of Toronto.

Cap. 60. An Act respecting a certain By-law of the Town of Trenton.

Cap. 61. An Act to consolidate the debt of the Town of Woodstock.

Cap. 62. An Act to incorporate the Village of Woodville.

Cap. 63. An Act to incorporate the Brockville, Westport and Sault Ste. Marie Railway Company.

Cap. 64. An Act to confirm certain Municipal By-laws granting aid to the Canada Southern Railway Company.

Cap. 65. An Act to incorporate the Cascadelta Railway Company.

Cap. 66. An Act to incorporate the Dawn Tramway Company.

Cap. 67. An Act respecting the Gananoque and Rideau Railway Company.

Cap. 68. An Act respecting the Hamilton and Dundas Street Railway Company.

Cap. 69. An Act respecting the Lake Simcoe Junction Railway Company.

Cap. 70. An Act to incorporate the Midland Junction Railway Company.

Cap. 71. An Act to revive and amend the Act incorporating the Port Stanley, Strathroy and Port Franks Railway Company.

Cap. 72. An Act respecting the St. Catharines and Niagara Central Railway Company.

Cap. 73. An Act to incorporate the Sarnia and Lambton Southern Railway Company.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th April*, 1885.

The Committee of the Privy Council have had before them a Report, dated 18th April, 1885, from the Minister of Justice, upon the Acts passed by the Legislature of the Province of Ontario during the Session of 1884.

The Committee, on the recommendation of the Minister of Justice, advise that the said Acts, Chaptered 1 to 97 inclusive, be left to their operation, save and except as to Chapter 35, intituled: "An Act respecting License Duties," which was disallowed by Order of the Governor General in Council, on the 30th day of April, 1884.

The Committee further advise, on the same recommendation, that the attention of the Lieutenant-Governor of Ontario be called to the provisions of the 12th Section of Chapter 32, intituled: "The Municipal Amendment Act, 1884."

JOHN J. McGEE,

Clerk Privy Council.

Cap. 74. An Act to incorporate the Silverbrook Tramway Company.

Cap. 75. An Act to incorporate the Toronto, Hamilton and Buffalo Railway Company.

Cap. 76. An Act respecting the Toronto and Nipissing Eastern Extension Railway Company.

Cap. 77. An Act to authorize the Toronto Street Railway Company to issue Mortgage Debentures, and for other purposes.

Cap. 78. An Act respecting the Yorkville Loop Line Railway Company.

Cap. 79. An Act to amend the Act to transfer the securities of the Anglo-Canadian Mortgage Company to the Dominion Securities Company (Limited).

Cap. 80. An Act to reduce the Capital Stock of the English Loan Company, and for other purposes.

Cap. 81. An Act to amend the Acts respecting the Napanee River Improvement Company.

Cap. 82. An Act to incorporate the Niagara Falls Water Works Company.

Cap. 83. An Act to amend the Charter of Incorporation of the Ontario Methodist Camp Ground Company.

Cap. 84. An Act to incorporate the Toronto Tenement Building Association.

Cap. 85. An Act to incorporate the General Annual Conference of the Free Methodist Church of Ontario in Canada, and for other purposes.

Cap. 86. An Act respecting the Synod of the Diocese of Huron.

Cap. 87. An Act to amend the Act to incorporate Knox College.

Cap. 88. An Act respecting the Union of certain Methodist Churches therein named.

Cap. 89. An Act respecting Churchwardens in the Diocese of Toronto.

Cap. 90. An Act to amend the Synod and Rectory Sales Acts affecting the Diocese of Toronto.

Cap. 91. An Act to enable the Roman Catholic Episcopal Corporation of the Diocese of Toronto to sell certain lands.

Cap. 92. An Act to further amend the Act incorporating the Roman Catholic Bishops of Toronto and Kingston, in Canada, in each Diocese.

Cap. 93. An Act to amend the Acts incorporating Victoria College and Albert College.

Cap. 94. An Act to authorize the Supreme Court of Judicature for Ontario to admit Delos Rogers Davis to practice as a Solicitor.

Cap. 95. An Act for the relief of the Venerable Alexander Dixon and others.

Cap. 96. An Act respecting the Trusts of the Will of the late Samuel Smith, deceased.

Cap. 97. An Act to authorize the Trustees of the Estate of James Stock, deceased, to mortgage certain property.

QUEBEC, 31st VICTORIA, 1868.

1st Session—1st Parliament.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 26th June, 1868.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th inst., on the memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report :—

That he considers the Acts mentioned in the annexed schedule, passed by the Legislature of the Province of Quebec, in the first Session thereof, to be free from objection of any kind.

He therefore recommends that the same be respectively left to their operation.

(Signed) JOHN A. MACDONALD.

SCHEDULE.

31st Victoria, Chaps. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59.

(Signed) JOHN A. MACDONALD.

Copy *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th July*, 1868.

On a Memorandum dated 26th June, 1868, from the Hon. the Minister of Justice and Attorney-General, reporting, with reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June ultimo, on his memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, that he considers the Acts mentioned in the annexed schedule, passed by the Legislature of the Province of Quebec, in First Session thereof, to be free from objection of any kind; and he therefore recommends that the same be respectively left to their operation.

The Committee advise that the Acts mentioned in the annexed schedule be left to their operation accordingly.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

SCHEDULE.

Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 39, 40, 41, 42, 43, 44, 45, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59.

(Signed) JOHN A. MACDONALD.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 1st July, 1868.

In reference to the following Acts passed by the Legislature of the Province of Quebec at its late Session, the undersigned has the honor to report as follows:—

The second section of Chapter 14 legislates on the subject of Bankruptcy by extending the several Acts of the late Province of Canada on the subject, for a further period. This, in the opinion of the undersigned, is beyond the jurisdiction of the Local Legislature of Quebec, and he recommends that the attention of the Provincial Government be called to it.

The undersigned would suggest that this Act should be amended, expressly limiting the powers of the Companies to be established under it, to the limits of the Province of Quebec.

The 8th sub-section of the second clause legislates on the subject of Fisheries, which seems by the Union Act to belong to the Parliament of the Dominion. That portion of the sub-section which authorizes the incorporation of Companies for the purpose of carrying on business in the waters *adjacent* to the Province, and therefore not *in* the Province, would especially appear to be *ultra vires*.

The same remarks that are made on Chapter 24 are applicable to the second section of this Act.

The undersigned would also suggest that the attention of the Government of Quebec be called to the expediency of expressly limiting the 14th clause of Chapter 37 to procedure in Recorders' Courts, relating to Municipal matters; all legislation relating to proceedings in criminal matters appertains to the General Parliament.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th July,* 1868.

On a Memorandum dated 1st July, 1868, from the Honorable the Minister of Justice and Attorney-General, having reference to the following Acts passed by the Legislature of the Province of Quebec, at its late Session, and reporting thereon as follows:—

31 Vic., Cap. 14.—That the second section of Cap. 14 legislates on the subject of Bankruptcy, by extending the several Acts of the late Province of Canada on the subject for a further period.

That this, in the opinion of the Minister of Justice and Attorney-General, is beyond the jurisdiction of the Local Legislature of Quebec, and he recommends that the attention of the Provincial Government be called to it.

31 Vic., Cap. 24.—He suggests that this Act should be amended, expressly limiting the powers of the Companies to be established under it to the limits of the Province of Quebec.

That the eighth sub-section of the second clause legislates on the subject of Fisheries, which seems, by the Union Act, to belong to the Parliament of the Dominion.

That that portion of the sub-section which authorizes the incorporation of Companies for the purpose of carrying on business in the waters *adjacent* to the Province, and therefore not *in* the Province, would especially appear to be *ultra vires*.

31 Vic., Cap. 25.—That the same remarks that are made on Cap. 24 are applicable to the second section of this Act, 31 Vic., Cap. 25.

He also suggests that the attention of the Government of Quebec be called to the expediency of expressly limiting the 14th clause of Cap. 37 to procedure in Recorders' Courts relating to Municipal matters; all legislation relating to procedure in criminal matters appertains to the General Parliament.

The Committee concur in the Report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Under Secretary of State to Lieutenant-Governor of Quebec.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES, 10th July, 1868.

SIR,—In relation to the Order of His Excellency the Governor General in Council, dated 9th June, 1868, respecting the power possessed by the Government of the Dominion, of disallowing Acts passed by the Local Legislature, I have the honor, by Order of His Excellency, to transmit to Your Excellency, herewith, for the consideration of the Government of the Province of Quebec, a certified copy of an Order of His Excellency in Council, in relation to certain Acts which were passed by the Legislature of that Province in its last Session, and which require to be revised and corrected in the sense of that Order.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary.

To His Excellency the Lieut.-Governor, Quebec.

Chief Engineer Public Works to Secretary Department of Public Works.

OTTAWA, 7th December, 1868.

The Secretary, Department of Public Works.

SIR,—I have the honor to acknowledge the receipt of your letter (No. 2864), drawing attention to certain enquiries made by the Honorable the Minister of Justice, relative to the probable effects of the work proposed to be constructed by a Company, at or near the Lachine Rapids, in the River St. Lawrence.

With a view of placing the matter fully before the Department, it is deemed proper, first, to give a brief statement of the leading points contained in the documents, which have been submitted both for and against the scheme, together with references to other papers bearing on the subject.

It appears that a number of gentlemen, residents of Montreal and other parts of the Province of Quebec, are desirous of being incorporated under the name of "St. Louis Hydraulic Company, for the purpose of carrying on the business of creating water power for driving of mills and machinery, by the construction of dams, sluices and other mechanical appliances, and of leasing or selling the same."

The place where they propose engaging in this business, is at or near that part of the River St. Lawrence known as the Lachine Rapids, and in the vicinity of Montreal.

They represent, having made an arrangements for "the undivided half or moiety of that certain Fief, in the district of Montreal, known as l'Isle au Heron, in the River St. Lawrence, near the St. Louis or Lachine Rapids," &c., &c., &c. In confirmation of this, a copy of a notarial document, dated 4th December, 1866, is submitted, from which it appears that the transfer of the "undivided half of l'Isle au Heron" has been made conditionally—that is to say, in case the Company be not incorporated and chartered, or of its failing to carry out the terms of the arrangement, then a re-assignment of the property is to be made to the original owner, or person who made the transfer.

On a memorial setting forth the objects proposed to be effected by the Company, an Act of Incorporation was passed at the last Session of the Legislature of the Province of Quebec, authorizing a Joint Stock Company to be formed, with power to take possession of part of the bed and beach of the St. Lawrence, to purchase, acquire and hold lands for canals, roads, ditches, &c., and construct a dam between the Isle au Heron and the north shore of the river.

"The several clauses of Chapter 66 of the Consolidated Statutes of Canada, under the several heads of *Powers, Plans and Survey, Lands and their valuation, and Fences, shall be* incorporated with this Act," &c., &c., &c.

The Company to have a Capital Stock of two million of dollars, with power to increase that amount if deemed proper. The Charter to be forfeited if the Company do not go into actual operation within three years. The construction of the works not to be commenced until one million dollars of the Capital Stock is subscribed, nor until one hundred thousand dollars shall have been paid up.

This Act or Bill was, however, reserved for the Royal Assent.

Since the Bill was passed by the Legislature of Quebec, several memorials have been presented to His Excellency the Governor General, praying, for various reasons therein stated, that it be disallowed, viz.:—

1st. From W. J. Knox and Robert Knox (18th March, 1868), owners of mills at the Lachine Rapids, representing, that by the Bill, the "St. Louis Hydraulic Company" would have the power of constructing works, which would destroy the water-power owned by them, the memorialists.

That the Company would have the right of acquiring a large amount of property that would prevent the carrying out of a scheme, which had been in contemplation for the last *thirty* years, for the further development of the water-power, &c., &c.

2nd. From F. B. Mathews (21st March, 1868), owner of the individual half of Isle au Heron, praying that his property may not be taken possession of against his will, for the benefit of a private Company, &c.

3rd. From Hugh Fraser, and eighteen others, proprietors of land lying on the North Shore of the River St. Lawrence, between Montreal and Lachine (23rd March, 1868), praying that assent to the Bill be withheld, inasmuch as the passage of a law, giving private individuals and speculators the right to take property of their neighbors, at their own valuation, would tend to destroy the security hitherto enjoyed by the inhabitants of the country in their titles to lands, &c., &c.

The petitioners also state, that they believe the Bill, "in its present shape, to be unconstitutional, for various reasons, and amongst others those recapitulated in the *exposé* or *factum* hereunto annexed, and respectfully submitted," &c., &c.

The document thus referred to is headed, "Statement of the grounds on which it is contended that the Bill to incorporate the St. Louis Hydraulic Company, passed by the Parliament of the Province of Quebec, but reserved for the Royal Assent, should not be passed."

In this paper the principal features of the Bill are discussed, and reasons assigned why it should be disallowed.

This document seems to have been ably and carefully prepared; and, as a whole, is well worthy of consideration.

There is also a memorial (dated 17th March, 1868), signed by 231 persons, chiefly residents of Montreal, to His Excellency the Governor General, praying that the Bill may be *assented to*, inasmuch as the carrying out of the proposed undertaking would secure to Montreal an unfailing supply of pure water, and create an immense amount of invaluable water-power for general use, &c., &c.

In this connection it may be stated that an Act was passed in 1861 (24 Vic., Cap. 96), intituled: "An Act to incorporate the Montreal Hydraulic and Dock Company." By the 3rd section of this Act, the Company are empowered to make a canal and conduct water from some point on the River St. Lawrence, within seven miles from the City of Montreal, for the use and supply of the said docks, or for hydraulic or manufacturing purposes.

By the 5th section, the Company has the power to lease or sell water-power for mills, manufactures, &c., &c., but none "of the provisions in this Act mention as to taking possession of, and entering upon lands, shall apply to lands to be purchased along the canal supplying the said water-power, which lands shall only be acquired by voluntary contract and agreement."

By the 45th section, the powers of the Company are to cease if their works are not commenced within three years, or are not finished or put in operation within ten years from the passing of this Act.

The Act shows that the scheme was looked upon as consisting of two (distinct) parts, the principal one, or that connected with navigation, being considered as essentially a public work, whilst that relating to water-power was viewed and treated as a private undertaking.

It is believed that the proposed canal was to have been supplied with water from a point above the Lachine Rapids, where the river is naturally of a height suited to the purposes contemplated.

It appears from the Acts passed previous to 1859, that the Public Works Department had no power to acquire land as a site for water-power or other hydraulic purposes, except in the usual manner of voluntary agreement with the owner, although invested with full power to take possession of all such lands as were necessary for works essentially of a public nature.

But, in 1859, an Act was passed (22nd Vic., Cap. 3), intituled: "An Act to amend and consolidate the several Acts respecting the Public Works." By the 31st section, the Commissioner may at all times acquire and take possession of all lands, or real estate, streams, waters and water-courses, the appropriation of which for the use, construction and maintenance of hydraulic privileges made or created by, from, or at such public works, is in his judgment necessary, &c." In "An Act respecting the Public Works of Canada," passed in 1867 (31st Vic., Cap. 12), the powers relating to the acquirement of land are similar to those described in the Act of 1859.

It, therefore, appears that previous to 1859, the Department of Public Works was not invested with the power of taking possession of lands for the water-powers, which even the construction of the Provincial canals had created.

The exception then made in favor of the Department, was not, however, in 1861, extended to the "Montreal Hydraulic and Dock Company," in so far as related to that portion of their project which had for its object the formation of mill privileges.

Notwithstanding the magnitude of the scheme now under consideration, and its great public importance, if it should be successfully carried out, its chief aim is similar to that part of the "Montreal Hydraulic and Dock Company's" project, from which the power of expropriation was withheld.

It may, therefore, fairly be questioned, whether such powers could judiciously be conceded to the "St. Louis Hydraulic Company."

The (231) memorialists in favor of the projected undertaking, gave, as their principal reason for supporting it, that it would have the effect of "permanently securing, for the City of Montreal an unfailing supply of pure and wholesome water."

On examining the plan submitted by the Company, it appears that the water above the proposed dam is intended to be raised eighteen feet, and kept at a height

of about thirty feet over ordinary low water mark in the Harbor of Montreal, and in this way it is alleged the desired object will be effected.

A memorandum, explanatory of the design, shows that "during a portion of last winter (1867) a natural dam of ice was actually formed across the lower end of this channel, and raised the water above it to about the level which will be attained when the permanent dam is constructed, &c., &c."

A record of the water-levels, kept by the Superintendent of the Montreal water-works, shows that during the period above alluded to, viz., the 16th, 17th and 18th January, 1867, the water at the site of the proposed dam stood at a height of 30·37 feet above datum, or fully four inches higher than the level to which it is intended to raise the water above the dam.

During the remaining portion of the month of January, it varied from 29·74 to 29·97, and averaged 28·76 feet above datum, giving for this time a mean fall of 1·24 feet at the site of the dam, when the level above is maintained at 30 feet as proposed.

In the month of February it ranged from 28·97 to 24·63 feet, averaging 26·58 feet over datum, and giving for this period a mean fall of 3·42 feet at the dam.

From the 1st to the 21st March the average level was 25·61 feet over datum, giving a mean fall at the dam of 4·39 feet.

The general average of the daily levels from the 19th January to the 21st March, 1867, gives a mean fall of 3·31 feet.

Although the water was backed up, in 1867, to a greater height on this point on the St. Lawrence, than is usually the case, the phenomenon is more or less of annual occurrence; so that, in ordinary seasons, during the greater part of the months of January, February and March, there is not a fall of more than from 4 to 6 feet, under the assumed level at the place where the dam is proposed to be built.

Any opinion given as to the probable effect which the construction of a permanent dam would have on the ice-jam below, must, of necessity, be mere conjecture; it being quite as likely that the height of back water, hitherto experienced, might be augmented, as that it would be diminished; in fact, the result is something which cannot be foreseen or calculated upon, with the slightest degree of certainty. From the facts above stated, it appears, that for a considerable portion of every winter (ice-jams and back-water continuing as heretofore), there would practically be no available pumping power to effect the object, for which the memorialists mainly recommend the scheme; nor, indeed, a sufficient head of water to drive machinery suitable for manufacturing or milling purposes.

In the memorandum submitted by the Company it is stated, "That the erection of this dam will be followed by the packing back of the water to the Lake above, &c., &c.," and the probable rising of the Lake level with its tributary streams. This view of the matter is doubtless correct. By closing up the north branch of the river, all the water would be forced into the south channel, where it would have to pass in a space of much less width than that at present occupied by the river, which would, of course, cause an elevation of the surface level above.

This increased height of the surface would, doubtless, bear some proportionate relation to the section of the river closed, and would be such as to give the water a fall sufficient to produce a velocity which would carry off the whole natural flow of the river.

The height, or distance up stream to which the rise would be experienced, it would be all but impossible, under any circumstances, to determine correctly in advance. But, from the class of information submitted on the part of the Company, no "data" whatever is afforded on which to base any opinion relating to these important points.

Indeed, when the magnitude of the river, the set of the rapids, and the irregularity of the channel at this place is considered, it seems doubtful whether such details and *formulæ* as are applicable to ordinary streams, would be anything like a safe guide in attempting to form an opinion of the results likely to ensue from the construction of the proposed works.

The banks of the river below Lachine, on the north side, and below Caughnawaga, on the south side, are understood to be so high, that they are unlikely to be flooded to any great extent.

There is reason, however, to apprehend that a permanent rise in Lake St. Louis would, during periods of high water, result in considerable damage to several low Islands in the lake, and to tracts of low lands along its shore.

The streams, which now drain the surrounding country, might also form channels for conveying water into the interior. Thus the property of a large number of persons in no way connected with the enterprise would, in all probability, be injuriously affected; and possibly to an extent which, when fully ascertained, might prove to be a serious, if not unexpected drain on the means of the Company.

There is no doubt that, could the proposed undertaking be successfully accomplished, it would greatly advance the manufacturing interests of Montreal, and prove to be a source of immense benefit to the whole community.

Nevertheless, a project where so many individual interests are at stake, and which is open to such serious objections, should not be entertained, unless it can be clearly shown that it is the best, if not the only way, of effecting the object.

An enterprise of this kind, to be really successful, should be so situated that the power is as little as possible liable to variation, or interruption. This, it has been shown, is unlikely to be the case, with water-powers formed in the vicinity of Isle au Heron.

It is, however, quite evident that the River St. Lawrence, between Montreal and Lachine, can supply a very large amount of "unfailing" water-power; but in order to secure this, the water must be drawn from the river at a point considerably higher than the place selected by the St. Louis Hydraulic Company. That is to say:—If, from some point within a few miles of Lachine, a canal of large dimensions were constructed, at such a distance from the margin of the river as circumstances required, an almost unlimited number of "unfailing" water-powers might be formed.

In this way the probable extent of damages could be foreseen and provided for, the risk of flooding of lands avoided, and the hazardous experiment of blocking up a large section of a river of such magnitude as the St. Lawrence, rendered unnecessary.

I have &c.,

(Signed) JOHN PAGE,
Chief Engineer Public Works.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th January, 1869.

The undersigned, to whom was referred the Despatch of the Lieutenant-Governor of the Province of Quebec, of the 28th February last, enclosing a Bill, which he had reserved for the assent of the Governor General, intituled: "An Act to incorporate the St. Louis Hydraulic Company," has the honor to report:—

That this Company is proposed to be incorporated for the purpose of creating a water-power, by the erection of a dam across the River St. Lawrence, running between Isle au Heron and the northern bank of the river.

The Bill was reserved for Your Excellency's assent, on the Report of the Attorney-General for Quebec, that, in his opinion, the second clause of the Act, which authorizes the construction of this dam, appeared to fall within the powers of the Parliament of Canada, under the 10th paragraph of the 91st section of the Union Act.

As it is a matter of national importance to preserve the navigation of the greatest river in the Dominion from being obstructed, and, as it was the opinion of some

professional men, that the erection of the proposed dam would not only injuriously affect the navigation of the river, but cause great injury to property on or near its banks, the undersigned thought it expedient that a Report should be obtained from the Chief Engineer of the Department of Public Works on the subject. That Report, a copy of which is hereunto annexed, was received by the undersigned on the 24th ultimo.

The whole tenor of this Report shows that Mr. Page apprehends that the projected work would cause serious changes of a prejudicial character in the navigation of the river, and might be the means of injuring private property to an extent, which cannot now be calculated.

After such a Report, and without reference to the constitutionality of the Act, the undersigned is of opinion that it would not be safe, in the public interests, to allow this Bill to become law.

He therefore recommends that Your Excellency's sanction be not given to it, and that your decision, together with a copy of Mr. Page's Report, be transmitted to the Lieutenant-Governor of Quebec for his information.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 13th January*, 1869.

On a Report, dated 11th January, 1869, from the Honorable the Minister of Justice, on a Despatch of the Lieutenant-Governor of the Province of Quebec, of the 28th February last, enclosing a Bill which he had reserved for the assent of the Governor General, intituled: "An Act to incorporate the St. Louis Hydraulic Company."

The Minister of Justice reports that this Company is proposed to be incorporated for the purpose of creating a water-power by the erection of a dam across the River St. Lawrence, running between Isle au Héron and the northern bank of the river.

That the Bill was reserved for the Governor General's assent, on the Report of the Attorney-General of Quebec, that, in his opinion, the second clause of the Act, which authorizes the construction of this dam, appears to fall within the powers of the Parliament of Canada, under the 10th paragraph of the 91st section of the Union Act.

That, as it is a matter of national importance to preserve the navigation of the greatest river in the Dominion from being obstructed, and, as it was the opinion of some professional men, that the erection of the proposed dam would not only injuriously affect the navigation of the river, but cause great injury to property on or near its banks, he, the Minister of Justice, thought it expedient that a Report should be obtained from the Chief Engineer of the Department of Public Works on the subject.

That Report, a copy of which he submits, was, he states, received by him on the 24th ultimo.

That the whole tenor of this Report shows that Mr. Page apprehends that the projected work would cause serious changes of a prejudicial character in the navigation of the river, and might be the means of injuring private property to an extent which cannot now be calculated.

That after such a Report, and without reference to the constitutionality of the Act, he is of opinion that it would not be safe, in the public interests, to allow this Bill to become law.

He therefore recommends that Your Excellency's sanction be not given to it, and that such decision, together with a copy of Mr. Page's Report, be transmitted to the Lieutenant-Governor of Quebec for his information.

The Committee concur in the above recommendation, and submit the same for Your Excellency's approval.

Certified.

WM. H. LEE,
Clerk Privy Council.

Provincial Secretary of Quebec to the Secretary of State.

SECRETARY'S OFFICE, QUEBEC, 20th January, 1869.

SIR,—I have the honor, by Order of His Excellency the Lieutenant-Governor, to submit for the consideration of His Excellency the Administrator of Canada the enclosed memorandum, in relation to the remarks, transmitted with your letter of the 10th July last, respecting the Statutes of the first Session of the Legislature of the Province of Quebec.

I have &c.,

(Signed) PIERRE J. O. CHAUVEAU,
Secretary.

The Honorable
The Secretary of State, Ottawa.

Under Secretary of State to Provincial Secretary, Quebec.

OFFICE OF THE SECRETARY OF STATE, OTTAWA, 22nd January, 1869.

SIR,—I have the honor to acknowledge the receipt of your letter of the 21st instant, submitting, for the consideration of His Excellency the Administrator of the Government, a memorandum respecting the remarks, transmitted with the letter of the Secretary of State, in relation to the Statutes of the first Session of the Legislature of the Province of Quebec.

I shall not fail to submit your letter and its enclosure, for the consideration of His Excellency.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary.

The Honorable
The Provincial Secretary, Quebec.

MEMORANDUM.

On the Act 31st Vic., Cap. 14, it is suggested that clause 2 "legislates on the subject of Bankruptcy," inasmuch as it continues in force several Acts of the Province of Canada on that subject for a further time.

At the time this Act was passed, the continuing Act of the Parliament of the Dominion was still unpassed, and as the temporary Acts in question applied only to procedure in any possible cases still pending, wherein Commission of Bankruptcy had issued before the 30th May, 1849, it was not clear, but that the question was

rather of "procedure in civil matters," than of Bankruptcy within the purview of the Constitutional Act. In the doubt as to which view might prevail in Ottawa, it seemed prudent to save the Acts, in so far at least as they might be held regulative of civil procedure, by enactment here. Parliament has since confirmed them by the Act 31st Vic., Cap. 20, in so far as they may be held regulative of Bankruptcy proper; and their continued validity cannot, from any point of view, be questioned.

Perhaps it might be better to let them formally expire, enacted only, once for all, that such expiration shall not affect procedure in any wise, in any case pending under Commission issued before the 30th May, 1849, as to which only they should remain in full force

Whether this be done, or the Acts kept in the continuing Act, there is probably no need for concurrent action of the Legislature with Parliament, and it is therefore not proposed here to legislate further in reference to them, unless at the instance of the Government of the Dominion, for the avoidance of the doubt above suggested.

On the Act 31st Vic., Cap. 24, three suggestions are made:—

1. That it "be amended, expressly limiting the powers of the Companies to be established under it, to the limits of the Province of Quebec."

This Act is not one under which Companies are to be established; but merely a General Clauses Act, applying to Companies to be established under special Acts.

Taking the suggestion to mean, that another General Clause to the above effect should be added to those contained in the Act; the answer seems obvious, that such proposed limitative declaration either is law already, and therefore need not be enacted, or *is not* law, and, in that case, ought not to be; whether it is law or not, may be said to depend on the sense given to the words used. Companies incorporated under a Provincial Act can have no right to recognition out of their Province, as there capable of acting, unless in so far as the Court under the laws there, may freely accord it; nor even in their Province, as capable of acting out of it in contravention of any power prohibitive, or respective law, or public policy there subsisting, and in that sense their powers may be said to be limited to their Province. But for a Province to go further, and assume to set a limit in express words which may mean that they are absolutely incapable of contracting, or at all operating out of the Province, could not well be thought. Under such a restriction, the power to incorporate, would hardly subsist for any practical end.

2. That sub-section eight of clause two, legislates on the subject of Fisheries, which seem by the Union Act to belong to the Parliament of the Dominion.

All it does is to make the general clauses apply to all Companies to be created by future Special Act, for carrying on fisheries. But this is not legislating on the subject of Fisheries. If, indeed, any of the general clauses interfered with any possible Fishery Legislation of Parliament, or Fishery law of any kind, the case may be different; although then the objection would be to such clauses, not to this sub-section, but in fact they do not. Incorporating Companies to carry on Fisheries is no more legislating on Fisheries than incorporating Companies to hold and navigate ships is legislating on navigation and shipping; or than incorporating Companies for either of these, or for other trading purposes, is legislating on trade. The objection, if good at all, would hardly leave the Provinces power to incorporate Companies at all.

3. That so much of this sub-section as authorized the incorporation of Companies for the purpose of carrying on business in the waters adjacent to the Province, and therefore not in the Province, would specially appear to be *ultra vires*.

As already remarked, there is nothing in this Act authorizing incorporation of Companies at all. It merely affects such Companies as the Legislature may otherwise create. Till it shall have exceeded its powers, the fair presumption is, that it will not.

At the same time, the words qualifying the phrase, a "Fishery or Fisheries," to the end of the second line of this sub-section, are of no value, and were, in fact, retained, by mere inadvertence, from the Act of Canada on which this Act was framed.

It would be well to amend the Act by striking them out. The appearance of laying down one special rule as to the local powers of this particular class of Companies, would thereby be avoided.

On the Act 31st Vic., Cap. 25, which is for incorporation of Companies by Letters Patent, the same three suggestions are made.

1. To the suggestion of an express limitation of the powers of the Companies so to be incorporated, a sufficient answer (it is submitted) has been given.

2. To the objection on the ground of fishery legislation also, the answer above made seems sufficient.

3. As the words after "Fishery or Fisheries," in the first and second lines of sub-section 8 of clause 2 in this Act, it is admitted that they purport to authorize incorporation of Companies within the geographical limits indicated, and which limits extend beyond those of the Province. As already stated, they were retained from mere inadvertence, and might be well struck out in this Act, as well as in Chapter 24.

On the Act 31st Vic., Cap. 37, it is suggested that clause 14 should be limited "to procedure in Recorders' Courts relating to Municipal matters, as all legislation relating to procedure in General matters to the General Parliament."

This Act does not relate to Recorders' Courts generally, but only to that for the City of Montreal. And the limitation proposed "to Municipal matters" would not answer; as the jurisdiction of the Court, in matters not properly criminal, extends to other than merely Municipal matters.

The Act was passed under some pressure for time, at the instance of the Corporation of the City of Montreal.

It is thought that the Corporation were right in their view as to the expediency of the simplification of procedure in this Court, provided for by this clause. But it was, no doubt, in error, that the simplification purports to be thereby enacted, in respect of so much of that procedure, as is properly criminal.

The proper course would seem to be for the Corporation or the Provincial Government to obtain at the hands of Parliament the requisite legislation in this behalf. Should this be refused, it will become a question whether the clause as a whole may not have to be repealed, to avoid the inconvenience to arise from the concurrent subsistence of two procedures, and the doubts and mistakes likely to result from it.

(Signed) PIERRE J. O. CHAUVEAU.

Secretary of the Province of Quebec.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd February, 1869.

The undersigned has the honor to make the following Report on the Memorandum transmitted by the Secretary of the Province of Quebec to the Secretary of State for Canada, on the 20th ultimo. Such memorandum being on the subject of certain Acts passed in the last Session of the Legislature of the Province of Quebec, respecting which a correspondence has been going on.

31st Vic., Cap. 14.—The suggestion made in the memorandum, that the Act in question shall be allowed to expire at the end of the next Session, so far as it affects the law of Bankruptcy, is, in the opinion of the undersigned, the best mode of getting out of the difficulty.

31st Vic., Cap. 24; 31st Vic., Cap. 25.—The suggestion also made, as to the propriety of amending these Acts, is also satisfactory.

31st Vic., Cap. 37.—The course proposed to be adopted with reference to this Act is also satisfactory; and the Provincial Government is requested to see that the Act in question be amended in accordance therewith.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 8th February*, 1869.

The Committee have had before them the following Report of the Honorable the Minister of Justice, on the annexed memorandum, transmitted by the Secretary of the Province of Quebec to the Secretary of State for Canada, on the 20th ultimo. Such memorandum being on the subject of certain Acts passed in the last Session of the Legislature of the Province of Quebec, respecting which a correspondence has been going on, viz. :—

31st Vic., Cap. 14.—The suggestion made in the memorandum, that the Act in question shall not be allowed to expire at the end of the next Session, so far as it affects the Law of Bankruptcy, the Minister of Justice states, is, in his opinion, the best mode of getting out of the difficulty.

31st Vic., Cap. 24 ; 31st Vic., Cap. 25.—That the suggestion also made as to the propriety of amending those Acts, is also satisfactory.

31st Vic., Cap. 37.—That the course proposed to be adopted with reference to this Act, is also satisfactory ; and that the Provincial Government be requested to see that the Act in question be amended in accordance therewith.

The Committee submit the Report of the Minister of Justice for Your Excellency's approval.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor Belleau.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 9th February, 1869.

SIR,—I have the honor, by command of His Excellency the Governor General, to transmit to you herewith copy of an Order in Council, in relation to a Memorandum of the Provincial Secretary of the Province of Quebec, respecting certain Acts passed in the first Session of the Legislature of that Province.

I have, &c.,
(Signed) HECTOR L. LANGEVIN,
Secretary of State.

The Honorable
Sir N. F. BELLEAU, Lieutenant-Governor,
Quebec.

Assistant Provincial Secretary to Secretary of State.

SECRETARY'S OFFICE, QUEBEC, 12th February, 1869.

SIR,—I have the honor to acknowledge the receipt, from you, of an Order in Council, in relation to a Memorandum of the Secretary of the Province of Quebec, respecting certain Acts passed in the first Session of the Legislature of Quebec, by you transmitted to this office.

I have, &c.,
(Signed) P. J. JOLICŒUR,
Assistant Secretary.

The Honorable
The Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th February, 1869.

In reference to the following Acts passed by the Legislature of the Province of Quebec, in the first Session thereof, the undersigned has the honor to report as follows:—

31st Vic., Cap. 46.—This Act seems objectionable on two grounds.—*First*, That it authorizes the obstruction of the River Richelieu; and as, by the "British North America Act, 1867," rivers seem to be the property of the Dominion, it would appear, from a constitutional point of view, that the Act should be passed by the Parliament of Canada.

Secondly, That the dam authorized by the Act, is to be erected in the vicinity of the Government Canal, and that the backwater will interfere with the navigation of those Canals.

The attention of the Government of Quebec is invited to the propriety of having this Act repealed.

31st Vic., Cap. 47.—This Act incorporates the Canada Marine Insurance Company, and the second clause gives it power and authority, within the limits of the Province of Quebec, to make insurances, among other things, against loss by the perils of navigation to any vessel, either sea-going, or navigating the Lakes or Rivers.

Now, although it is provided that the policy is to be granted within the limits of the Province, the risks, by the express language of the clause, may be taken on vessels going far beyond those limits.

As the Union Act only gives power to the Local Legislatures to incorporate companies with Provincial objects, it would seem that the Act is invalid in that respect.

The attention of the Government of Quebec is invited to the expediency of repealing this Act.

A similar one can readily be obtained from the Parliament of Canada.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd February*, 1869.

The Committee have had under consideration the annexed Report of the Honorable the Minister of Justice, stating certain constitutional objections which exist to the Acts passed by the Legislature of the Province of Quebec in its first Session, viz.:—31st Vic., Cap. 46; 31st Vic., Cap. 47; and they respectfully concur in the Report, and advise that it be communicated to the Government of Quebec, through the Secretary of State for the Provinces.

Certified,

(Signed) W. A. HIMSWORTH,
Assistant Clerk Privy Council.

Under Secretary of State to Lieutenant-Governor Belleau.

OFFICE OF THE SECRETARY OF STATE, OTTAWA, 24th February, 1869.

SIR,—I have the honor to transmit to you, herewith, for the information of the Government of the Province of Quebec, copy of an Order of His Excellency the Governor General in Council, with a copy of the Report (mentioned in the Order) of

the Honorable the Minister of Justice, on the subject of certain Acts passed by the Legislature of the said Province in its first Session.

I have, &c.,

(Signed) E. A. MEREDITH.
Under Secretary.

The Honorable
Sir N. F. BELLEAU, Lieutenant-Governor,
Quebec.

QUEBEC, 32ND VICTORIA, 1869.

2ND SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd November, 1869.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th of June, 1868, on the Memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of Quebec, in the second Session thereof (32nd Vic.), to be free from objection of any kind. He, therefore, recommends that the same be respectively left to their operation.

(Signed) JOHN A. MACDONALD.

SCHEDULE.

32nd Victoria, Chapters 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40. 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64. 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96.

JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th November*, 1869.

The Committee of Council have had before them the annexed Memorandum, dated 3rd November, 1869, from the Honorable the Minister of Justice reporting, with reference to the Imperial "British North America Act, 1867," and to the Order in Council of 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislature.

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of Quebec, in the second Session thereof, to be free from objection of any kind, and that he therefore recommends that the same be respectively left to their operation.

The Committee advise that the Acts mentioned in the said annexed Schedule be left to their operation accordingly, that is to say:—

32nd Victoria, Chapters 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96. Certified.

WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd November, 1869.

With reference to the following Act, passed by the Legislature of the Province of Quebec at its second Session (32nd Victoria), the undersigned has the honor to report as follows:—

That Chapter 4, intituled: "An Act to define the Privileges, Immunities and Powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers," is objectionable.

By the 18th clause of the "British North America Act, 1867," it is enacted that the privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons of the Dominion of Canada shall be such as shall be, from time to time, defined by Act of the Parliament of Canada, but so that the same shall never exceed those held, enjoyed and exercised at the passing of such Act by the House of Commons of the United Kingdom.

It is to be assumed that the power to pass an Act defining these privileges was conferred upon the Parliament of Canada, on the ground that without such a provision, the Parliament of Canada could not have passed any such Act.

It is clear, from the current of Judicial decision in England, that neither of the branches of a Colonial Legislation has any inherent right to the privileges of the Imperial Parliament. Perhaps, however, under the Legislative powers given to the Parliament of the Dominion, by the 91st Section of the Union Act, to make laws "for the peace, order and good government of Canada," it might have passed an Act, without any enabling power from the paramount authority, establishing and defining the privileges of its two Chambers. However this may be with respect to the General Parliament, it is to be observed that there is no clause in the Union Act, similar to the 18th, giving to the Provincial Legislatures power to define or establish their privileges, and that no *general* powers of Legislation for the good government of the Provinces, are given to their Legislatures. Their powers are strictly limited to those conferred by the 92nd, 93rd, 94th and 95th clauses of the Union Act.

By the Act in question it will be seen that the Legislature of Quebec has declared that the Members of the Legislative Council and Legislative Assembly of that Province,

shall enjoy the same privileges as those exercised by the Senate and House of Commons of Canada respectively.

It would seem, therefore, that this Act is in excess of the power of the Provincial Legislature. If it has any power to legislate in the matter at all, it seems to follow that, while the General Parliament can, under the 18th clause, confer no greater privileges than those enjoyed by the Imperial House of Commons, the Provincial Legislature, being bound by no such limitation, might, if it were so disposed, confer upon itself and its Members, privileges in excess of those belonging to the House of Commons of England.

The Legislature of Ontario having, at its last Session, passed a similar Act to the one in question, the undersigned, on the 20th February last, made a Report thereon to Your Excellency, which you were pleased to transmit to the Secretary of State for the Colonies, for the purpose of being referred to the Law Officers of the Crown in England, and the Attorney and Solicitor-General have given their opinion that it was not competent for the Legislature of Ontario to pass such an Act.

The undersigned recommends that the attention of the Government of Quebec be called to this Act, suggesting that the same should be repealed at the next Session of their Legislature.

He also recommends that the copy of Lord Granville's Despatch and of the opinion of the Law Officers of the Crown, hereunto annexed, be transmitted with any Order in Council that may be adopted on this Report, to the Government of Quebec, and that their attention be particularly called to that portion of such opinion, which refers to the Act of the Legislature of Ontario herein mentioned.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November*, 1869.

The Committee of Council have had under consideration the annexed Memorandum, dated 3rd November, 1869, from the Honorable the Minister of Justice, having reference to an Act passed by the Legislature of the Province of Quebec, at its Second Session (32nd Victoria), intituled: "An Act to define the privileges and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers;" and they respectfully advise that the suggestions contained in the said Memorandum be approved, and that a Copy of it, and of this Minute, as also a Copy of Lord Granville's Despatch of 8th May, 1869, and of the opinion of the Law Officers of the Crown therein enclosed, be transmitted to the Government of Quebec, and that their attention be particularly called to that portion of such opinion, which refers to the Act of the Legislature of Ontario, mentioned therein.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Mr. Secretary Langevin to Lieutenant-Governor Belleau.

OFFICE OF THE SECRETARY OF STATE, OTTAWA, 11th November, 1869.

SIR,—I have the honor to forward you, herewith enclosed, for the information of the Government of the Province of Quebec, a copy of an Order of His Excellency the

Governor General in Council, respecting an Act passed by the Legislature of the said Province, in the Second Session thereof, intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers."

You will also find herewith enclosed, copies of the Laws, and documents mentioned in the Order. These documents have been forwarded to you in accordance with the provisions of the Order, and for the objects set forth therein.

I have, &c.,

(Signed) HECTOR L. LANGEVIN,
Secretary of State.

To the Honorable
Sir N. F. BELLEAU, Lieutenant-Governor,
Quebec.

Mr. Secretary Chauveau to the Secretary of State of Canada.

PROVINCE OF QUEBEC, SECRETARY'S OFFICE,
QUEBEC, 20th November, 1869.

SIR,—I have the honor, by order of the Lieutenant-Governor, to acknowledge the receipt of your letter, dated the 11th November instant, and of the documents therein, in relation to an Act passed in the last Session of the Legislature of Quebec, intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers," and to pray you to inform His Excellency the Governor General, that the Government of the Province of Quebec will give its best attention thereto, and that representations in relation to the matter will be transmitted to His Excellency.

I am further directed by the Lieutenant-Governor to pray His Excellency to make known to him the nature of the objections which have been formulated against another Act of the Legislature of Quebec, intituled: "An Act respecting District Magistrates."

I have, &c.,

(Signed) PIERRE J. O. CHAUVEAU,
Secretary.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th November, 1869.

With reference to the Report of the undersigned of the 3rd instant, relative to the Act passed by the Legislature of the Province of Quebec, at it last Session, being 32 Vic., Chap. 4, intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers;"

And also to the correspondence with the Government of Quebec on the subject, the undersigned has now the honor to report, that in his opinion, it was not competent for the Legislature of the Province of Quebec to pass such Act, and he

therefore recommends that the same should not receive the confirmation of Your Excellency.

All of which is respectfully submitted.

JOHN. A MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th November*, 1869.

On a Memorandum, dated 24th November, 1869, from the Honorable the Minister of Justice, stating, with reference to his Report of the 3rd November, instant, relating to the Act passed by the Legislature of the Province of Quebec at its last Session, being 32nd Vic., Chap. 4, intituled:

An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers; and also, with reference to the correspondence with the Government of Quebec on the subject; that, in his opinion, it was not competent for the Legislature of the Province of Quebec to pass such Act, and that he therefore recommends that the same should not receive the confirmation of Your Excellency.

The Committee advise that the Act above referred to, be not confirmed by Your Excellency.

Certified.

(Signed) WM. H. LEE,

Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 26th day of November, 1869.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant Governor of the Province of Quebec, with the Legislative Council and Assembly of the said Province, did, on the 5th day of April, 1869, pass an Act which has been transmitted, intituled as follows, viz.:—

"An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act shall not receive the confimation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of His Privy Council, to declare His disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Quebec, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,

Clerk Privy Council.

I, John Young, Baronet, Governor General of Canada, do hereby certify, that the Act passed by the Legislature of the Province of Quebec, on the 5th day of April, 1869, intituled:—

"An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers," was received by me on the 21st day of May, 1869.

Given under my hand and seal this 26th day of November, 1869.

(Signed) JOHN YOUNG.

Secretary of State for Provinces to Lieutenant-Governor of Quebec.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 2nd December, 1869.

SIR,—In relation to the letter dated 11th November, ultimo, signed by Mr. Langevin, I have the honor to transmit to you, herewith, Copy of an Order of His Excellency the Governor General in Council, refusing to assent to an Act passed by the Legislature of the Province of Quebec, in its last Session, intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers"

His Excellency's certificate, attached to the Order, gives the date of the receipt by him of the Act above mentioned.

I have, &c.,

(Signed) J. HOWE.

The Honorable
Sir N. F. BELLEAU, Lieutenant-Governor.

The Lieutenant-Governor of the Province of Quebec to the Honorable the Secretary of State for the Provinces, Canada.

QUEBEC, 6th December, 1869.

SIR,—I have the honor to acknowledge receipt of your letter, dated the 2nd day of December, instant, enclosing Copy of an Order of His Excellency the Governor General in Council, refusing to assent to an Act passed by the Legislature of the Province of Quebec, in its last Session, intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers."

I have, &c.,

(Signed) N. F. BELLEAU.
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces,
Ottawa.

QUEBEC, 33RD VICTORIA, 1869-70.

3RD SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th December, 1869.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th of June, 1868, on the Memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That he considers the Act passed during the present Session of the Legislature of the Province of Quebec (33rd Victoria), entitled: "An Act to amend the Law respecting the constitution of the Superior Court," to be free from objection of any kind. He therefore begs leave to recommend that the same be left to its operation.

All which, &c.,

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st December,* 1869.

On a Memorandum dated 20th December, 1869, from the Hon. the Minister of Justice, reporting with reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures;

That he considers the Act passed during the present Session of the Legislature of the Province of Quebec, 32 Vic., intituled: "An Act to amend the Law respecting the constitution of the Superior Court," to be free from objection of any kind. He therefore recommends that the same be left to its operation.

The Committee advise that the Act above referred to, be left to its operation accordingly.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th October, 1870.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th of June, 1868, on the Memorandum of the under-

signed, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report :

That in his opinion all the Acts passed by the Legislature of the Province of Quebec in the third Session thereof, 33rd Vic. (excepting Chap. 5, and including Chap. 10, the latter having been already reported upon) are free from objection of any kind.

He therefore recommends that the same be left to their operation.

With respect to Chap. 5, entitled : " An Act to uphold the authority and dignity of the Houses of the Quebec Legislature, and the independence of the Members thereof, and to protect persons publishing Parliamentary Papers," the undersigned has great doubts whether the Legislature had jurisdiction, for reasons analogous to those contained in his Report on the disallowance of the Act of the previous Session, entitled : " An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers."

As, however, the Act in question contains provisions necessary to uphold the authority and dignity of the Provincial Legislature, the undersigned deems it inexpedient to interfere with the operation of the Act. He, therefore, recommends that it also should be left to its operation, it being, of course, open to any parties affected by it to dispute, before the Legal Tribunals, the constitutionality of the Act.

All which, &c.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th October*, 1870.

On a Memorandum dated 19th October, 1870, from the Hon. the Minister of Justice, reporting, with reference to the Imperial " British North America Act, 1867," and to the Order in Council of the 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures,—

That, in his opinion, all the Acts passed by the Legislature of the Province of Quebec, in the third Session thereof (33rd Victoria), excepting Chapter 5 and including Chapter 10, the latter having been already reported upon, are free from objection of any kind. He therefore recommends that the same be left to their operation.

That with respect to Chapter 5, entitled : " An Act to uphold the authority and dignity of the Houses of the Quebec Legislature and the independence of the Members thereof, and to protect persons publishing Parliamentary Papers," he has great doubts whether the Legislature had jurisdiction, for reasons analogous to those contained in his Report on the disallowance of the Act of the previous Session, entitled : " An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers."

That as, however, the Act in question contains provisions necessary to uphold the authority and dignity of the Provincial Legislature, he deems it inexpedient to interfere with the operation of the Act, and therefore recommends that it should also be left to its operation, it being, of course, open to any parties affected by it to dispute, before the Legal Tribunals, the constitutionality of the Act.

The Committee concur in the foregoing Report, and advise that all the Acts referred to be left to their operation accordingly.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 34TH VICTORIA, 1870.

4TH SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th September, 1871.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June, 1868, on the Memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report,—

That, after a careful consideration of the Acts passed in the Fourth Session of the Legislature of the Province of Quebec, held in the 34th year of Her Majesty's reign, he is of opinion that the same should be left to their operation, and he respectfully recommends accordingly.

The undersigned, however, at the same time begs leave further to report, that he entertains considerable doubt whether the Act 34th Vic., Chap. 2, intituled: "An Act to consolidate and amend the law respecting Licenses, and the duties and obligations of persons bound to hold the same" is not, in some respects, *ultra vires.*

The Act imposes licenses and license fees on taverns, shops, peddlers, &c., in accordance with the power given by the 92nd Section of the Union Act, which gives to the Provincial Legislatures the exclusive power of making laws in relation to shop, saloon, tavern, auctioneer and other licenses, in order to the raising of revenue for Provincial, Local or Municipal purposes.

The Act in question goes further, however, in several of its provisions, than to provide for the raising of revenue by charging license fees. It contains a number of clauses providing for the regulation of taverns, stores and shops, which have no connection with any revenue purposes.

Now, by the Union Act, the duty of all Legislation relating to regulation of trade and commerce, is thrown upon the General Legislature, and, in the opinion of the undersigned, several of the provisions of the Quebec Act referred to, are in regulation of trade, and do not concern the raising of revenue.

The undersigned, therefore, thinks it his duty to recommend that the attention of the Provincial Government be called to this matter, as worthy of their consideration. The Act is a beneficial one in itself, and is mainly a consolidation of the previously existing law.

It will be for any persons feeling themselves aggrieved by any action under the Statute, to test the question of its validity in the Courts.

The Act, Chapter 38, intituled: "The Municipal Code of the Province of Quebec," is, in the opinion of the undersigned, liable to the same objection as the one just mentioned, and the same remarks are applicable to it.

Chapter 36, intituled: "An Act to amend the Act 20th Victoria, Chapter 125, intituled: 'An Act to divide the Quebec Turnpike Roads into two separate trusts, and to make other provisions relative thereto.'"

In the opinion of the undersigned, this is a private and local Act, affecting one of the assets belonging to the Provinces of Quebec and Ontario jointly, and, as such, due notice should have been given of it in the Quebec *Gazette*, according to the rules of Parliamentary practice, which obtain in that Province.

The provision of the Act is, in itself, unobjectionable. It merely increases the number of trustees from five to seven persons.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd September*, 1871.

The Committee of Council have had under consideration the annexed Memorandum, dated 16th September, 1871, from the Honorable the Minister of Justice, reporting that, after a careful consideration of the Acts passed in the Fourth Session of the Legislature of the Province of Quebec, held in the 34th year of Her Majesty's reign, he is of opinion that the same should be left to their operation, and recommends accordingly.

The Committee advise that the Acts above referred to be left to their operation accordingly.

The Minister of Justice, in submitting the foregoing recommendation, offers certain observations with reference to certain of the Acts in question, and recommends that the points raised by him be brought under the notice of the Provincial Government.

The Committee concur in the observations submitted by the Minister of Justice, and advise that a Copy of his said annexed Memorandum be communicated to the Lieutenant-Governor of the Province of Quebec.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

QUEBEC, 35TH VICTORIA, 1871

1ST SESSION—2ND PARLIAMENT.

Memorandum of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th July, 1873.

With respect to the Acts passed in the first Session of the second Legislature of the Province of Quebec, held in the thirty-fifth year of Her Majesty's reign, no Report was made by the Minister of Justice to His Excellency, the Governor General.

After careful consideration of those Acts, it was seen that they were all unobjectionable, and it was thought unnecessary therefore to make any special Report, but to allow them to go into operation under the provisions of The British North America Act, 1867.

(Signed) JOHN A. MACDONALD.

QUEBEC, 36TH VICTORIA, 1872.

2ND SESSION—2ND PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th July, 1873.

With reference to the Acts passed by the Legislature of the Province of Quebec, at the Second Session of the Second Legislature in the 36th year of Her Majesty's reign, 1872, the undersigned has the honor to report,—

That with the exception of Chapters 13 and 16, which he reserves for further report; and with the further exception of Chapters 52, 53, and 59, he considers all the Acts of that Session unobjectionable, and recommends that they be left to their operation.

With regard to Chapter 52, he is of opinion that the 54th Section of that Act deals with the Criminal Law, inasmuch as it provides for the summary conviction before a Mayor, or Justice of the Peace, of parties guilty of an assault on a Constable, or Police Officer.

He therefore recommends that the attention of the Government of Quebec be called to the expediency of repealing this clause at the next Session of the Legislature.

The same remarks will apply to the 46th section of Chapter 53; and to the 33rd Section of Chapter 59.

The undersigned recommends, however, that these three last mentioned Acts should be left to their operation, leaving it to any parties affected by the clauses objected to in this Report, to dispute their constitutionality before the Legal tribunals.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th July,* 1873.

On a Memorandum dated 9th July, 1873, from the Honorable the Minister of Justice, reporting with reference to the Acts passed by the Legislature of the Pro-

vince of Quebec, at the Second Session of the Second Legislature, in the 36th year of Her Majesty's reign, 1872;

That with the exception of Chapters 13 and 16, which he reserves for a further Report, and with the further exception of Chapters 52, 53 and 59, he considers all the Acts of that Session unobjectionable, and recommends that they be left to their operation.

That with regard to Chapter 52 he is of opinion that the 4th Section of that Act deals with the Criminal Law, inasmuch as it provides for the summary conviction before a Mayor or a Justice of the Peace, of parties guilty of an assault on a Constable or Police Officer. He therefore recommends that the attention of the Government of Quebec be called to the expediency of repealing this clause at the next Session of the Legislature.

The Minister observes that the same remarks will apply to the 46th Section of Chapter 53, and to the 33rd Section of Chapter 59. He recommends, however, that these three last mentioned Acts be left to their operation, leaving it to any parties affected by the clauses objected to in this Report, to dispute their constitutionality before the Legal tribunals.

The Committee concur in the Report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,

Clerk Privy Council.

DEPARTMENT OF JUSTICE, OTTAWA, 7th May, 1874.

The undersigned has the honor to report that he has had under consideration, two Acts of the Legislature of the Province of Quebec, passed in the 36th year of Her Majesty's reign, being respectively: "An Act respecting the appointment of Queen's Counsel," and "An Act respecting the Registers of Civil Status," and he sees no objection thereto, and recommends therefore that the same should be left to their operation.

(Signed) A. A. DORION.

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th May,* 1874.

On a Report dated 7th May, 1874, from the Minister of Justice, reporting that he has had under consideration two Acts of the Legislature of the Province of Quebec, passed in the 36th year of Her Majesty's reign, being respectively: "An Act respecting the appointment of Queen's Counsel," and "An Act respecting the Registers of Civil Status," and that he sees no objection thereto, and recommends therefore that they be left to their operation.

The Committee advise that the Acts in question be left to their operation accordingly.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

QUEBEC, 37TH VICTORIA, 1873-74,

3RD SESSION—2ND PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd June, 1875.

With reference to the (59) Acts passed by the Legislature of the Province of Quebec, at the Third Session of the Second Parliament, in the 37th year of Her Majesty's reign, 1873-74, the undersigned has the honor to report,—

That with the exception of Chapters 8 and 55, he considers all the Acts of that Session unobjectionable, and recommends that they be left to their operation.

With reference to Chapter 8, the undersigned has grave doubts as to the constitutionality of this Act, which is already questioned before some Courts of Justice, but he is of opinion that, inasmuch as Chapter 23, of 32 Victoria, was allowed to go into operation, this Act should also be left to its operation.

With reference to Chapter 55, the undersigned is of opinion: That the powers given to the Ottawa Iron and Steel Manufacturing Company by the fourth section, to construct, maintain and use all necessary wharves, piers and booms required for the purpose of the said Company, is such as might interfere with navigation, and that section would seem therefore *ultra vires;* and the undersigned, not deeming it necessary to interfere with the operation of the Act, recommends that it should be left to its operation, and that the attention of the Provincial Government of Quebec be invited to the expediency of repealing this section.

All which is respectfully submitted.

(Signed) T. FOURNIER,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator in Council on the* 14*th June,* 1875.

The Committee have had under consideration the Report dated 3rd June, 1875, from the Hon. Mr. Fournier, acting in the absence of the Minister of Justice having reference to the (59) Acts passed by the Legislature of the Province of Quebec, at the Third Session of the Second Parliament in the 37th year of Her Majesty's reign, 1873-74.

The Minister states that, with the exception of Chapters 8 and 55, he considers all the Acts of that Session unobjectionable, and recommends that they be left to their operation.

That with reference to Chapter 8, he has grave doubts as to the constitutionality of this Act, which is already questioned before some Courts of Justice, but he is of opinion that, inasmuch as Chapter 23 of 32 Victoria was allowed to go into operation, this Act should also be left to its operation.

With reference to Chapter 55, he is of opinion that the power given to the Ottawa Iron and Steel Manufacturing Company by the 4th Section, to construct, maintain and use all necessary wharves, piers and booms required for the purposes of the said

Company, is such as might interfere with navigation, and that this Section would seem, therefore, *ultra vires;* and not deeming it necessary to interfere with the operation of the Act, he recommends that it should be left to its operation, and that the attention of the Provincial Government of Quebec be invited to the expediency of repealing this Section.

The Committee concur in the views and recommendations above set forth, and advise that the same be approved and acted on.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 38TH VICTORIA, 1874-75.

4TH SESSION—2ND PARLIAMENT.

Report of the Hon. Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th October, 1876.

With reference to the Acts of the Province of Quebec, passed in the fourth Session of the Second Legislature, 38 Victoria, 1875, the undersigned begs to report as follows:—

The undersigned does not recommend that the power of disallowance be exercised with reference to the following Acts:

Chapters 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 80, 82, 83, 84, 85, 86, 87, 88, 90, 91, 92, 93, 94, 95, 96, 97, 99, 100, 101.

With reference to

Chapter 4—"An Act to encourage the manufacture of sugar from beet-root in the Province of Quebec,"

This Act provides that the Lieutenant-Governor may grant an annual subsidy of five thousand dollars during five years, for the establishment of the first manufactory of sugar from beet-root in the Province. Such an establishment has been recognized by the Parliament of Canada as of public advantage by the statutory provisions which except the manufacture from any duty of Excise for a term of years. The undersigned does not presume that any practical inconvenience will be occasioned by this Act. He, however, thinks it proper to call the attention of Council to its provision, inasmuch as it is quite conceivable that Legislation of this description might impair or nullify the fiscal policy of Canada, and diminish or destroy the

sources of revenue, upon which the Government of Canada is obliged to depend for the discharge of the public obligations, and of the expenses of Government, and a case might arise in which it would be necessary to consider whether such legislation should be allowed.

The undersigned recommends that this Act be left to its operation.

Chapter 7—"An Act respecting the election of Members of the Legislative Assembly of the Province of Quebec."

The first part is entitled Parliamentary Electors.

The same title appears in section 3 of this part.

Sections 56 and 57—These sections impose penalties upon Secretary-Treasurers who may alter or falsify the statutory list of electors, and upon custodians of such lists, who may falsify copies furnished by them under the Statute.

These sections appear to trench upon the Criminal Law.

Section 64 speaks of the list of "Parliamentary Electors."

The second part is entitled "Holding of Parliamentary Elections."

With reference to the use of this phrase, the undersigned attaches an extract from his Report on the Statutes of Manitoba, made on the 19th inst., and submits that the attention of the Lieutenant-Governor of Quebec should be called to these observations.

Section 218—This section provides that whoever forges, &c., ballot papers, or attempts so to do, shall incur certain penalties of fine and imprisonment. This section, at any rate in part, obviously trenches upon the provisions of the Criminal Law, and the undersigned recommends that the attention of the Lieutenant-Governor should be called to the objection, with a view to the amendment of the clause, which is, in these particulars, clearly *ultra vires*.

Sections 235, 238, 258 and 290—These, and also some other sections, seem to trench upon the Criminal Law, and, with reference to them, the undersigned refers also to Section 291, which provides that "every punishment, by way of fine or imprisonment, imposed by the present Act, shall be incurred in addition to any punishment that may be inflicted by the Parliament of Canada, for the same offence."

With reference to this latter and the other sections, the undersigned begs to quote the following remarks from his Report on the Legislation of the Province of Manitoba, and recommends that the attention of the Lieutenant-Governor should be called to them, as applicable to the sections in question:—

"This section, in terms, acknowledges that some, at any rate, of the acts which are to be punished under the law, are crimes within the Criminal Law, and that the Legislation is, therefore, *ultra vires*.

"The undersigned observes that prior Legislation of the other Provinces has, although objectionable in some of the particulars to which he has called attention, been suffered to pass without observation, and, upon the whole, he does not recommend the disallowance of this Act.

"There is, however, a growing tendency towards the invasion of the Criminal Law by Local Legislatures, which is obviously objectionable, and he suggests that the attention of the Lieutenant-Governor should be called to the Act now under consideration, with the request that he would move the Government to recommend to the Legislature a measure, repealing such sections as trench upon the Criminal Law."

Chapter 47. "An Act to incorporate the St. Lawrence Bridge Company."

This Act recites that a bridge over the River St. Lawrence, passing at or near St. Helen's Island, and near the City of Montreal, has become an absolute necessity, both to establish a connection between the railways on the North of the River St. Lawrence and the railway system on the South of the river, and for other purposes. It incorporates the Quebec Railway Act of 1869, with certain exceptions, applying certain of its provisions to the Company incorporated, and to the bridge authorized to be constructed by the Act.

It authorizes the Company to build, construct, maintain, work and manage a bridge across the River St. Lawrence, from a point on the north shore, passing on or

near the island called Isle Ronde, to the St. Helen's Island, or near it, near the City of Montreal, to or near the Parish of Longueuil, or St. Lambert, in the County of Chambly. It gives powers to any Railway Companies, whose roads have a terminus or station at or near Montreal, or connecting with any railway having such a terminus, to loan their credit to the Corporation, and to subscribe to this stock. It provides that no work shall be commenced until the plans and the site of the bridge have been approved by the Lieutenant-Governor in Council, and the conditions he may impose shall have been complied with, and that notice of the particulars shall be published in two of the Montreal newspapers, for a period of three months before steps are taken by the Company to erect the piers of the bridge.

A Bill was introduced during the last Session of the Canadian Parliament, for the purpose of authorizing the construction of a bridge across the St. Lawrence River, at or near Montreal, which gave rise to a lengthened investigation into the question, and in the end the Bill was not proceeded with. In view of what then occurred, and of the great importance of preserving the navigation of the River St. Lawrence, the undersigned recommends that the same course be taken with this measure, as has been ordered with reference to the Act of the Legislature of Manitoba for the construction of a bridge across the Assiniboine, and that the Act be disallowed, leaving to those interested, to apply to the Parliament of Canada for authority to prosecute the enterprise.

Chapter 76. "An Act to amend and consolidate the Act of incorporation of the City of Three Rivers, and the various Acts which amend the same."

The 75th Section gives powers to the Council to make by-laws for restraining and prohibiting the sale of spirituous liquors, and is thus open to some of the questions now before the Courts, as to the power of the Local Legislature to make such enactments.

The 79th Section, sub-section 4, seems to trench upon the provisions of the Criminal Law, and the attention of the Lieutenant-Governor should be called to it, with a view to its repeal.

Chapter 78. "An Act to amend the Act 36 Vic., Cap. 53, intituled: 'An Act to incorporate the Corporation of the Town of Lachine.'"

Section 27. Some of the provisions of this Section may be open to question as being *ultra vires*, but similar legislation having taken place in another Province, the undersigned does not recommend any interference. The attention of the Lieutenant-Governor should, however, be called to the section, with a view to its amendment.

Chapter 79. "An Act to incorporate the City of Hull."

Section 91. This Section empowers the Council of the City of Hull to make such By-laws as they may deem expedient in relation to the ferries between the Cities of Hull and Ottawa, and the Township of Templeton, and to impose penalties upon all persons or ferrymen, refusing or neglecting to conform to such By-laws, and to regulate the manner and before whom the same shall be recovered, and such penalties shall belong to the City of Hull."

It further provides that the Mayor, Aldermen and citizens only shall have the right to grant licenses to "keep such ferry, which licenses shall not exceed a period of ten years, and the revenue from which licenses shall be equally divided between both Corporations."

This provision is clearly *ultra vires*, as the ferry between Hull and Ottawa is between two Provinces, and is thus within the exclusive power of Canada. The attention of the Lieutenant-Governor should be called to this section, with a view to its repeal.

The same section (sub-sec. 5) gives power to the Council to make By-laws for restraining and prohibiting the sale of spirituous liquor, and is thus open to some of the questions now before the Courts, as to the power of the Local Legislature to make such enactments.

Section 130. This section trenches upon the provisions of the Criminal Law, and is similar to Sec. 54 of 36 Vic., Cap. 52, Statutes of Quebec, to which objection was taken by the Minister of Justice, in a Report dated 9th June, 1873.

The undersigned suggests that the Lieutenant-Governor should be invited to promote the repeal of this section.

Sections 166, 219, 220 and 221 appear to trench upon the Criminal Law, and the attention of the Lieutenant-Governor should be called to them, with a view to their amendment or repeal.

Chapter 81. "An Act to incorporate 'The Atlantic Insurance Company of Montreal.'"

This Act recites that the increasing trade and commerce of the Province of Quebec justifies and demands increased facilities for Marine and Inland Insurance, that the establishment of Companies for that purpose, will afford greater convenience in effecting insurance for settling losses, and also more security for losses, and greater facilities for recovering them, and that the persons named are desirous of establishing such a Company.

By the first Section certain persons are united for the purpose of insurance.

By the second Section the Company is given powers within the limits of the Province of Quebec, to make insurances connected with marine risks of navigation and transportation by water, against loss or damage by fire or by perils of navigation of or to any vessel, &c., either seagoing, or navigating upon lakes, rivers or navigable waters, and of or to any cargo, &c., and to do all other necessary things relating to such objects. Although the language in the preamble is directed, in part at any rate, to Provincial purposes, yet the powers given to the Company are apparently unlimited, save that these contracts are to be made in Quebec; and the undersigned quotes in the second Appendix hereto an extract from his Report of 15th September instant, on several Insurance Acts containing similar provisions passed by the Legislature of Nova Scotia, and he recommends that the attention of the Lieutenant Governor of Quebec should be called to the suggested difficulties, with an intimation that, subject to such observations as he may make, it would seem that this Act should not be left to its operation, unless it is to be amended at the ensuing Session of the Legislature.

Chapter 89. "An Act to incorporate 'The Sherbrooke Gas Company.'"

Sections 15, 18 and 19.—Most of the subjects of these Sections appear to come within the Criminal Law, being provided for in the Act with reference to malicious injuries to property, and the attention of the Lieutenant-Governor should be called to these clauses in this respect.

Chapter 98. "An Act to authorize Geo. Benson Hall to make improvements in River Chaudière and exact tolls for the use thereof."

This Act recites that it is of importance for the advantage of lumbering on the River Chaudière and its tributaries that a dam and piers and safe and secure booms should be erected on the said river at and above the tidal and navigable waters of the River St. Lawrence, at a point to be determined by the Commissioner of Public Works; that George Benson Hall has prayed for a privilege to that effect, and empowers Mr. Hall to erect a dam, &c., and to charge tolls. The undersigned subjoins (Appendix 3) a copy of his Report of 15th September instant, upon certain Acts of the Legislature of Nova Scotia with like objects. The undersigned has called the attention of the Minister of Marine and Fisheries to the Act, with a view to obtaining such information as is available, concerning the navigability of River Chaudière, and has received the following reply: "This river, I understand, has a rapid or fall near its mouth, above which vessels do not go, nor is there any navigation above that point for vessels; consequently I do not see that the exercise of the power given by this Act will in any way operate injuriously to the interests of navigation."

Upon the whole the undersigned does not recommend that the power of disallowance be exercised, but he recommends that the attention of the Lieutenant-Governor of Quebec be called to the difficulty that may arise under such Legislation.

(Signed) EDWARD BLAKE,
Minister of Justice.

APPENDIX 1.

EXTRACT *from Report of the Minister of Justice, of 19th September*, 1876, *Statutes of Manitoba*, 38 *Victoria*, 1875.

Chapter 2, "An Act respecting the election of Members of the Legislative Assembly of the Province of Manitoba."

The heading of the first part is "Parliamentary Elections." The same phrase occurs before the 12th Section, and in the latter part of the 13th Section, which provides that the list thereby established, shall be the list of Parliamentary Electors for the electoral division. With reference to this phrase, the undersigned refers to the Report of the Minister of Justice of 1st July, 1868, upon Chapter 30, of 31st Victoria, of the Statutes of Ontario, in which Report there is contained, with reference to the same phrase, the following observations :—

"The 41st section of the Union Act provides that all the laws of the several Provinces relating to Parliamentary elections in force at the time of the Union, shall remain in force until the Parliament of Canada otherwise provides."

"If the clause in question is intended merely to apply to elections for the Legislative Assembly of Ontario, it is inaccurate in expression."

"To avoid confusion, the Union Act confines the name of Parliament to the General Legislature, the Provincial Legislative bodies are styled uniformly as Legislatures."

"The undersigned recommends that the attention of the Government of Ontario be called to this section, and suggests that the same should be amended, so as to limit it expressly to elections for the Legislature of Ontario."

The undersigned recommends, that the attention of the Lieutenant-Governor of Manitoba should be called to the use of this phrase, with a suggestion that it should be amended, so as to limit it expressly to electors for the Legislative Assembly of Manitoba.

APPENDIX 2.

EXTRACT *from Report of Minister of Justice of 15th September, on the Acts of the Legislature of Nova Scotia*, 38 *Victoria*, 1875.

With reference to the Acts the undersigned would refer to his approved Report of 27th October, 1875, upon the Prince Edward Island Act, to incorporate the Merchant Marine Insurance Company of Prince Edward Island, which contains the following language :—

"It appears to the undersigned that, under the express language of this clause, it is attempted to give the Company power to do an insurance business with persons not residents of the Province, in respect of risks on vessels not touching Provincial ports ; in a word, to do a universal insurance business. The power of Provincial Legislatures to incorporate insurance companies is to be found, if at all, in the 11th Sub-Section of the 92nd Section of the British North America Act, 1867, which gives to the Local Legislature authority to make laws for the incorporation of companies with Provincial objects. It appears to the undersigned that the powers attempted to be conferred on this Company, are beyond any fair construction of these words."

The undersigned would also refer to his approved Report of 16th November, 1875, with reference to the Ontario Act to incorporate the Canada Fire and Marine Insurance Company, which contains the following language :—

"The powers proposed to be conferred by this Act appear, to the undersigned, too wide. It appears to effect policies of fire insurance with any persons or bodies corporate, and to make contracts of marine insurance with any persons in respect to losses to vessels navigating any waters, from or to any ports. It is not provided that

the chief place of business shall be in the Province. Power is given to comply with the laws of other Provinces or States, wherein the Company may carry on business, and the word 'Canada' introduced into the name, is, of itself, indicative of more than Provincial power. On the 31st March, 1873 Chapter 82, of the Statutes of Nova Scotia, from 1874, was disallowed upon the grounds applicable to this Act."

The language quoted appears to apply to all the Acts now under consideration. Chapter 76 indeed does not expressly authorize the doing of a universal insurance business, though its language is wide enough for such an interpretation, but the corporations created or perpetuated by the remaining Acts, are expressly authorized to do universal marine insurance business.

The undersigned recommends that the attention of the Lieutenant-Governor of Nova Scotia should be called to the suggested difficulties, with an intimation that subject to such observations as he may make, it would seem that these Acts cannot be left to their operation.

APPENDIX 3.

EXTRACT *from Report of Minister of Justice of 15th September instant, on the Statutes of Nova Scotia, 38th Victoria,* 1875.

Chapter 89. "An Act to incorporate the Colchester Driving and Manufacturing Company." This Act authorizes the Company to build dams, sluices and breakwaters, and otherwise improve Little River, in Brookfield, in the County of Colchester, and its tributaries, so as to make the same navigable for logs, timber and lumber, and to levy tolls for conveying logs, timber and lumber down such river and its tributaries; and it provides for a lien on all logs, &c., passing through the dams, &c., and for the enforcement of such lien. The 6th Section provides that nothing in the Act contained shall be construed to authorize the Company to interrupt, hinder or prevent the navigation of any navigable river or other navigable water.

Chapter 90. "An Act to incorporate the St. Margaret's Bay Lumber and Timber Driving Company." This Act gives substantially the same powers with reference to the Ingraham and Indian Rivers, and their tributaries.

Chapter 91. "An Act to incorporate the Cumberland Driving Company." This Act gives substantially the same powers with reference to the Moose River, Apple River, Half-Way River and River Hebert, save that the power to levy tolls is confined to levying tolls for conveying logs, &c., down such of the rivers as the Company shall have so improved as to make navigable for logs, timber and lumber.

Chapter 92. "An Act to incorporate the Liscomb River Driving Company." This Act gives substantially like powers as are given by Chapters 89 and 90, with reference to the east and west branches of the Liscomb River and their tributaries, but it does not contain the restrictive clause, providing the Company being authorized or empowered to interrupt the navigation of any navigable waters.

The undersigned is not aware whether any of the rivers referred to in these Acts is to any extent at present, navigable. If so, none of them can be said to be wholly unobjectionable, as they appear to authorize the Companies to levy tolls, not merely for the conveyance of the logs through the improvements, but also for their passage down those parts of the rivers which are navigable. It is further to be observed, that it might become an important question, whether works of this kind should be constructed under Local Authority in important navigable rivers, the navigation of which might, by a small expenditure, be improved.

Chapter 92 is open to the additional objection, that the restrictive clause is not inserted. It is presumed that none of these rivers are of great importance, and that no serious embarrassment will result from the operation of the Companies. Of course they do not in law, by these Local Acts, acquire any power to interfere with the free navigation of such parts of the river as are navigable, and upon the whole the under-

signed submits that, notwithstanding the difficulties to which he has referred, they may be left to their operation, the attention of the Lieutenant-Governor being called to the difficulty.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee have had under consideration the Report hereunto annexed, dated 16th October, 1876, from the Honorable the Minister of Justice, having reference to the Acts of the Province of Quebec, passed in the year 1875, 38 Victoria, and they concur in the recommendations and suggestions contained in said Report, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 25th October, 1879.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Quebec, with the Legislative Council and Assembly of the said Province, did, on the 23rd day of February, 1875, pass an Act which has been transmitted, intituled as follows, viz.: "An Act to incorporate the St. Lawrence Bridge Company;"

And whereas the said Act has been laid before His Excellency the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that the said Act should not receive the confirmation of the Governor General.

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Quebec, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir, Frederick Temple, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Quebec, on the 23rd day of February, 1875, intitled: "An Act to incorporate the St. Lawrence Bridge Company," was received by me on the 22nd day of November, 1875.

Given under my hand and seal this 25th day of October, 1876.

(Signed) DUFFERIN.

PAPERS *RE* RYLAND.

Mr. Ryland to Mr. Attorney-General Church.

MONTREAL, 6th February, 1875.

SIR,—I see by the papers that you have introduced a Bill for the sub-division of the Registry Office for the Registration Division of Montreal.

Without presuming to comment on the motives which induced you at this late season of the Session, to bring forward a measure of such vast importance to the landed and monied interests of Montreal, without first consulting the Notarial Profession on the subject, I would call your attention to the arrangement between the Imperial Government and myself, under which I hold office, so that the Local Government may not plead ignorance of facts when called upon to provide adequate compensation for any loss I may sustain.

I have, &c.,

(Signed) G. H. RYLAND.

L. R. CHURCH, Esq.,
Attorney-General.

Mr. Ryland to the Minister of Justice.

MONTREAL, 2nd March, 1875.

DEAR SIR,—Perhaps I ought to have given you the enclosed copy of a communication, which, as a precautionary measure, I addressed to the Lieutenant-Governor of Quebec.

I have, &c,

(Signed) G. H. RYLAND.

Hon. T. FOURNIER,
Minister of Justice, Ottawa.

Mr. Ryland to Mr. Secretary De Boucherville.

MONTREAL, 8th February, 1875.

SIR,—Although I have already written to Mr. Attorney-General Church on the subject of the Bill introduced by him for the sub division of the Registry Office for the Registration Division of Montreal, as the measure, if it passed, materially and injuriously affects the arrangement between the Imperial Government and myself, under which I hold office, I deem it right, officially, to bring the matter under the notice of His Excellency the Lieutenant-Governor in Council, in order to guard against a possible plea of want of knowledge on the part of the Quebec Government in regard to my vested right.

And that there may be no mistake in any quarter on the subject, I have, by this day's mail, brought the whole matter under the notice of His Excellency the Governor General, representing the Imperial Government.

I have, &c.,

(Signed) G. H. RYLAND.

The Hon. C. B. De Boucherville,
Secretary.

Mr. Ryland to His Excellency the Governor General.

Montreal, 8th February, 1875.

My Lord,—Mr. Attorney-General Church having introduced a Bill in the Legislative Assembly of Quebec to sub-divide the Registry Office for Registration Division of Montreal into three Divisions, I take the liberty of enclosing a copy of a communication I have made to him on the subject.

In the year 1856 the then Attorney-General, now Mr. Justice Drummond, brought in a Bill for the division of Counties for registration purposes. It included a clause dividing Montreal into two offices.

This, His Excellency, Sir Edmund Head, insisted on being struck out, on the ground that it would interfere with the arrangement between the Imperial Government and myself, under which I held office, and might lead to unpleasant correspondence between the two Governments.

The present Bill is of a much more objectionable nature, and has been introduced, as I am credibly informed, for the sole purpose of rewarding certain members for their votes and support, of the Tanneries Scandal Investigation.

The late season of the Session at which it has been introduced may perhaps prevent the determined opposition by the landed proprietors, and the legal profession in Montreal, which would otherwise have been offered to its passage through the House.

But as the measure will materially interfere with the guarantee under which I hold office, I respectfully submit that it is precisely one of those cases in which you would be justified in taking steps to protect vested rights, involving the honor of the Crown you represent.

I have, &c.,

(Signed) G. H. RYLAND.

His Excellency
The Right Hon. the Earl of Dufferin, K.P., K.C.B.,
Governor General.

Mr. Assistant Secretary Jolicœur to Mr. Ryland.

Secretary's Office, Quebec, 9th February, 1875.

Sir,—I have the honor, by command of the Lieutenant-Governor, to acknowledge the receipt of your letter of the 8th instant, praying against the sub-division of the Montreal Registration Division, and to inform you that the subject will be submitted to His Excellency.

I have, &c.,

(Signed) P. H. J. JOLICŒUR,
Assistant Secretary.

G. H. Ryland, Esq.,
Registrar, Montreal.

Memorial of Mr. Ryland to the Governor General.

To His Excellency the Right Honorable The Earl of Dufferin, Governor General, &c., &c., &c., and the Honorable the Privy Council of the Dominion of Canada :

The Petition of George H. Ryland, Esquire, respectfully sheweth :—

That your petitioner, in 1841, held the Imperial and Patent appointment of Registrar and Clerk of the Executive Council of Canada;

That on public grounds, and at the request of Her Majesty's Lord High Commissioner,* your petitioner, though not compellable to do so, consented to surrender this office, and to receive in lieu thereof the Registrarship of Quebec, subsequently transferred to Montreal, with the guarantee of the Representative of the Crown;

That this arrangement was afterwards adopted and confirmed by the Legislature of Canada in a joint Address by both branches thereof to Her Majesty, dated 17th April, 1846;

That it was further adopted and confirmed by the House of Lords, on resolutions proposed and carried by His Grace the Duke of Argyle, on the 10th May, 1850;

That the Bill lately passed by the Legislature of Quebec, to divide the Registration Division of Montreal into three, virtually does away with the office conferred on your petitioner, as aforesaid, and will have the effect of depriving him of the income and advantages guaranteed by the arrangement between the Representative of Her Majesty and himself;

Wherefore, your petitioner prays that Your Excellency in Privy Council will take such steps, as in your wisdom may be thought proper, to protect him in his vested rights, and to arrest a measure at once injurious to the public, and involving the faith and honor of the Crown.

And your petitioner, &c., &c.

(Signed) G. H. RYLAND.

MONTREAL, 27th February, 1875.

Petition from Members of the Legal Profession, &c., of Montreal, to the Governor General.

MONTREAL, 11th May, 1875.

SIR,—We have the honor, by this day's post, to forward a petition to His Excellency the Governor General in Council, praying for the disallowance of the Bill lately passed by the Local Legislature of Quebec, for the sub-division of the present Registration Division of Montreal into three divisions. The petition, as you will perceive, is signed by all the large landed proprietors, capitalists, and most influential men of all classes in this community, and, as it merits more than ordinary attention, we respectfully urge that it be brought, as soon as possible, before the Privy Council, with a view to the immediate disallowing of the Act as prayed for.

(Signed) B. DEVLIN, M.P.
" L. A. JETTÉ, M.P.
" F. MACKENZIE, M.P.

The Hon. R. W. SCOTT,
Secretary of State, &c., &c., &c.

---

*See Lord John Russell's despatch, No. 52, dated 20th July, 1855.

To His Excellency the Right Honorable the Earl of Dufferin, &c., &e., &c., Governor General, and the Privy Council of the Dominion of Canada:

The Memorial of the undersigned Members of the Legal Profession, Notaries, Landed Proprietors and citizens of Montreal, respectfully represents:—

That the law recently passed by the Local Parliament of Quebec, for the subdivision of the present Registration Division of Montreal into three, was run through both branches of the Legislature in a hasty manner, without reference to the wishes or interests of the inhabitants of this important portion of the Dominion.

That, if carried into execution, it will cause inconceivable difficulty and confusion, in procuring the necessary information in the transfer of property and investment of capital, and, in many cases, will quadruple the present cost and expense of registration.

That your petitioners are aware that certain reforms are necessary in the present Registry Office, but these reforms apply to the system, for which no remedy is provided by the new Registration Act, which only multiplies the evils of which men complain.

That the delay now complained of in obtaining searches, will be seriously increased and, in fact, prove an insuperable obstacle to parties requiring prompt and accurate information relative to real estate.

Wherefore, your memorialists respectfully pray, that Your Excellency will use the authority vested in you to avert the threatened evils complained of, either by disallowance of the Act in question, or in such other manner, as, in your wisdom, Your Excellency may deem right to adopt.

And your memorialists, &c., &c., &c.

Report of the Hon. the Minister o Justice.

Department of Justice, Ottawa, 27th September, 1876.

The undersigned has the honor to report:

1. That an Act was passed by the Legislature of the Province of Quebec in the 38th year of Her Majesty's reign, Chap. 17, assented to on the 23rd February, 1875, for the purpose of dividing the Registration Division of Montreal into three Registration Divisions, a certified copy of which, as being one of the Acts of that Session, was received by the Governor General on the 22nd day of November last.

The Act provides that after the period fixed by the Lieutenant-Governor by Proclamation, the Registration Division of Montreal shall be divided into three Divisions for the register of deeds, &c., specifying the same.

Also, that the Registry Office now established in the City of Montreal shall continue to be that of the Registration Division of Montreal West, and the present Registrar shall, without new appointment, but during good pleasure, continue the Registrar of such Registration Division.

The Registrar of each Registration Division is also required to give security to the amount of $10,000.

2. On the 15th of March, 1875, Mr. Ryland transmitted a petition to the Governor General, a copy of which was immediately transmitted to the Lieutenant-Governor, and the receipt of the same was duly acknowledged.

That petition recites, that Mr. Ryland, in 1841, held the Imperial and patent appointment of Registrar and Clerk of the Executive Council of Canada.

That on public grounds, and at the request of Her Majesty's Lord High Commissioner, Mr. Ryland, though not compellable to do so, consented to surrender that office and receive, in lieu thereof, the Registrarship of Quebec, subsequently transferred to Montreal, with the guarantee of the Representative of the Crown.

That this arrangement was afterwards adopted and confirmed by the Legislature of Canada, in a joint Address by both branches thereof to Her Majesty, dated 17th April, 1846. That it was further adopted and confirmed by the House of Lords on resolutions proposed and carried by His Grace the Duke of Argyle, on the 10th of May, 1850.

That the Bill lately passed by the Legislature of Quebec to divide the Registration Division of Montreal into three, virtually does away with the office conferred on Mr. Ryland, and will have the effect of depriving him of the income and advantages guaranteed by the arrangement between the Representative of the Queen and himself. He prays, therefore, that steps may be taken to protect him in his vested rights, and to arrest a measure at once injurious to the public, and involving the faith and honor of the Crown.

3. In May last a petition was presented by three Members for the Electoral Divisions of Montreal, "signed by all the large landed proprietors, capitalists, and most influential men of all classes in that community."

The petition states that "the law recently passed (to which allusion is above made) was run through both branches of the Legislature in a hasty manner, without reference to the wishes or interests of the inhabitants of this important portion of the Dominion; that if carried into execution it will cause inconceivable difficulty and confusion in procuring the necessary information in the transfer of property and investment of capital; and in many cases will quadruple the present cost and expense of registration. That your petitioners are aware that certain reforms are necessary in the present Registry Office, but these reforms apply to the system, for which no remedy is provided by the new Registration Act, which only multiplies the evils of which men complain. That the delay now complained of in obtaining searches will be seriously increased and, in fact, prove an insuperable obstacle to parties requiring prompt and accurate information relative to real estate. Therefore, your memorialists respectfully pray, that Your Excellency will use the authority vested in you to avert the threatened evils complained of, either by disallowance of the Act in question, or in such other manner as, in your wisdom, Your Excellency may deem right to adopt."

4. The Acts of the Legislature of Quebec, comprising the one under consideration, were not received by the Secretary of State until the 22nd day of November, 1875, and the period within which the power of disallowance can be exercised consequently expires on the 22nd day of November, 1876.

5. The undersigned has received a letter from Mr. Ryland, dated 23rd September, 1876, recapitulating several points which he considers of moment in the consideration of the Act, and pointing out in detail the injurious manner in which the Act, if allowed to go into operation, would affect his official income and position. That portion of Mr. Ryland's letter is in the following words:—

"I shall now proceed, as concisely as possible, to point out the injurious manner in which the Act in question, if allowed to go into operation, will affect my official income and position.

"Under my commission as Registrar of the Registration Division of Montreal, my jurisdiction extends not only over the City of Montreal, but all the neighboring parishes, including the Counties of Hochelaga, Jacques Cartier, Isle Bizard and, in fact, the whole Island of Montreal, the whole extending over a length of upwards of forty miles; whereas, by the present Act I should be restricted to an area of about five miles, flanked on both sides by the growing portions of the city.

"The Act of the Local Legislature over-riding the whole of the arrangement between the Crown and myself, and without the slightest provision to compensate me, divides the present registration division into three.

"The first is to comprise the East Ward, the St. Mary's, the St. Jacques, the Saint Louis and the Saint Lawrence Wards, in all of which transactions requiring registration are daily passed.

"In fact I may add that about one-half of the receipts of my office are derived from those quarters, including the growing Village of St. Jean Baptiste, which is also taken way from me.

"The Second Division is to comprise the Centre, Western, St. Antoine and St. Ann's Ward within the city limits.

"The accompanying map will show you what this is. It contains the old part of the town, comprising the public buildings, court house, large stores, churches, banks, squares, colleges, seminary, and being, with the exception of a narrow, unbuilt strip, mostly property which never changes hands, and indeed where there is seldom a transaction passed requiring registration, and I think I am perfectly safe in saying that the receipts therefrom would not pay the current expenses of the office.

"This portion, however, of my present office I am generously allowed to retain.

* * * * * *

"The third division comprising the Counties of Hochelaga and Jacques Cartier, including all the parishes from the east end of Dorchester Street to Bout de L'Isle is about the most important, and, as regards registration, the most improving portion of my division, destined hereafter to provide a remunerating income to the Registrar, because the whole French working portion of the population, as well as the shipping interests and traffic, are moving that way."

6. With reference to the petition of Mr. Ryland, the undersigned has examined into the facts relative to his appointment, and they appear to him to be correctly detailed in the address to Her Majesty of the Legislative Assembly of the late Province of Canada, passed in the year 1846, founded upon the Report of a Select Committee made after a careful consideration of the documents and correspondence, which address is in the following words:—

"We, Your Majesty's most dutiful and loyal subjects, the Legislative Assembly of Canada, in Provincial Parliament assembled, humbly beg leave to approach Your Majesty with our renewed expression of devoted attachment to Your Majesty's Royal Person and Government.

"We humbly beg leave to lay before Your Majesty the particulars of a case which has resulted in serious injury to the circumstances of a faithful subject of Your Majesty, and we beg permission to submit for Your Majesty's gracious consideration:

"Previous to the Union of the Provinces of Upper and Lower Canada in 1841, the office of Clerk of the Executive Council of the latter Province was held by George H. Ryland, Esquire, he having been appointed thereto in October, 1838, and having succeeded his late respected father, who had held the same office for a long period of years, and Mr. Ryland continued in the performance of the duties of the same office under the Government of the United Province, having been sworn in as such in February, 1841.

"The late Lord Sydenham, the then Governor General of the Province, in re-organizing the Executive Council, thought it proper to make several changes in the constitution of the Executive Council, and to transfer many of the duties, which up to that period had been performed by the Clerk, to the President of the Council, and in effecting this arrangement His Lordship proposed to Mr. Ryland to surrender the appointment, and to accept in its stead the office of Registrar of Deeds in the then Judicial District of Quebec, at the same time guaranteeing to him an annual income from the emoluments thereof equal to the sum of £515 currency, to which he would be entitled as a retiring allowance under the Imperial Statute, 4 and 5 Wm. IV, Chap. 24.

"Mr. Ryland, on being thus guaranteed, and having reason to expect that the emoluments of the office offered to him would amount in the first year to a large sum, affording him ample compensation for vacating his original one, acceded to their proposal, and placed the latter at His Excellency's disposal.

"But he expressly stipulated in his acceptance of his new appointment, as well as in answer to the circular of His Excellency, Sir R. Jackson, Administrator of the Government, dated 18th December, 1841, that in the event of the Registrarship of the said District of Quebec not proving nearly equal in value to his appointment as Clerk of the Executive Council, the sum guaranteed was not to be considered as

compensation in full, either for relinquishing that office, or for his claim upon the Government.

"The Registry Ordinance of Lower Canada did not come into operation until the 31st December, 1841, and the time within which all existing deeds were to have been enregistered, and from which the great amount of remuneration would have resulted, was extended, until, eventually, a material alteration was made in the Registration Law, establishing County instead of District Registry Offices, and causing Mr. Ryland to become Registrar of the County, instead of the District of Quebec, notwithstanding his remonstrance; and this alteration had the effect not only of depriving Mr. Ryland of a great proportion of the remuneration resulting from these arrears, but also of essentially reducing the annual income of the office.

"It is true, that at a subsequent period, namely, on the 8th July, 1845, Mr. Ryland was transferred to the more important office of Registrar of the County of Montreal, which he now holds, but the Reports of the Commissioners appointed to examine into the Registry Offices, establish that both offices have been sources of labor and expense, rather than of profit.

"From the circumstances hereinbefore detailed, the Legislative Assembly feel that the case of Mr. Ryland is one of great hardship; that his claims, the justice of which have been officialy recognized by the late Governor General, Lord Metcalfe, ought not to be avoided nor overlooked, and that he has a right to expect that the contract between the Governor General and him, of which he has performed his part, should be carried out by the Imperial Government according to its terms, or as that may now be impossible, that he should be fully compensated for the non-fulfilment thereof.

"We, therefore, in reviewing these circumstances, humbly beg permission to call Mr. Ryland's claims, as herein set forth, to Your Majesty's gracious notice, and we humbly pray that Your Majesty will be pleased to take them in your most favorable consideration, and direct such measures to be adopted therein, as Your Majesty, in your wisdom, may find them to deserve."

7. Mr. Ryland, at the date of this Address, held his present office of Registrar of Montreal, and he claimed amongst other things the performance of Lord Sydenham's guarantee of 23rd August, 1841, referred to in the Address, and which was in the following words:

* * * * "But as it is possible that the emoluments of the Registrarship of Quebec may fall very far below those of your present office, His Excellency is willing to guarantee to you an income equal to the sum to which you would be entitled as a retiring allowance, were your employment in the public service altogether discontinued.

"Assuming your income on an average of the last three years to be £1,030, currency, and your length of service as a public officer to be 24 years, you would be entitled under the scale established by the 4 and 5 William IV, Chap. 24, to a retirement equal to one-half of your emolument, or £515 currency.

"That amount, therefore, His Excellency is willing to guarantee to you by making up your emolument from the employment in the public service which may hereafter be assigned to you, to that extent, should they be insufficent of themselves to do so—should they exceed it, you will of course be entitled to the excess."

8. It seems admitted on all hands that Mr. Ryland's transfer to the Registrarship did not affect his position, and that for all material purposes he stood and stands on the same ground, with reference to the Registrarship of Montreal, which he occupied with reference to that of Quebec.

9. For some time, while both the Imperial and Colonial Governments admitted that Mr. Ryland's claim had a just foundation, each Government submitted that the responsibility of satisfying these claims rested with the other.

10. In the course of these discussions, on the 16th of May, 1850, the House of Lords passed resolutions upon the subject, expressive of the opinion that Mr. Ryland's claims ought not to be avoided or overlooked, and that he had a right to expect that the agreement entered into between him and the Governor General, of which he had

performed his part, should be carried into effect according to its terms: or, as that might then be impossible, that he should be compensated for the non-fulfilment thereof.

11. On the 20th July, 1855, Lord John Russell, then Colonial Secretary, addressed the then Governor, a Despatch in the following words:

"The attention of Her Majesty's Government has again been called to the case of Mr. G. H. Ryland, formerly Clerk and Registrar of the Executive Council of the United Province of Canada.

"This case has been repeatedly brought under the consideration both of the Imperial and of the Colonial Governments, but no decision has been arrived at, which can be considered satisfactory, because, whilst both Governments have admitted that the claims of Mr. Ryland have in themselves a just foundation, each of those Governments have contended that the obligation of satisfying those claims, rests with the other.

"In 1846 the case was very carefully investigated by a Committee of the Colonial Legislature appointed for that purpose.

"The Report of the Committee was:—

"'That Mr. Ryland's claims, the justice of which has been recognized by the late Governor General, Lord Metcalfe, ought not to be avoided or overlooked, and that he has a right to expect that the contract entered into between him and the Government, of which he has performed his part, should be carried out according to its terms, or, as that may now be impossible, that he should be fully compensated for the non-fulfilment thereof.

"'In the same year Lord Grey, then Secretary of State for the Colonies, replied to an Address founded on this Report, that neither he nor his predecessor disputed Mr. Ryland's claim to compensation for whatever loss he may have sustained by the surrender of his office as Clerk of the Executive Council; and Lord Grey directed Lord Cathcart, then Governor General, 'strongly to urge on the House of Assembly the necessity of their providing for the reasonable compensation of the claimant.'

"It appears, therefore, from these, as well as from other facts connected with the case, that Mr. Ryland has failed hitherto in securing the satisfaction of his claims, not from any dispute as to their justice, but from difficulties in adjusting the manner in which compensation should be found.

"Considering the peculiar circumstances under which Lord Sydenham was sent as Governor General to Canada, and the large powers with which, for special purposes, he was invested, Her Majesty's Government are prepared to admit that the promise which he made, he had sufficient authority to make. They admit, further, that that authority came from the Imperial Government, and belonged to his position as Representative of the Crown. On the other hand, it will not be disputed that the arrangement which he proposed to Mr. Ryland, and which that gentleman was induced to accept, was one exclusively connected with Colonial affairs, and that whatever advantages attended, or were expected to attend it, were derivable by the Colony alone.

"The peculiarity of Mr. Ryland's case does not depend only on the specific written promise given by Lord Sydenham.

"It is further distinguished by the circumstance that that promise was given in order to induce Mr. Ryland to take a step which, on the faith of that promise, he did take, and which otherwise he would not have taken. He was induced to resign an office, of which he was in actual possession at the time.

"Thus the loss to which he has been since exposed, has arisen not merely from disappointed expectations, but from the sacrifice, voluntarily made, of advantages which he had actually enjoyed, and of which he might have retained possession.

"It cannot be satisfactory either to the Imperial or to the Colonial Government, that an individual should be placed in such a position from such a cause, and Her Majesty's Government hope that the Colonial Government will readily co-operate with them in finding a solution of the difficulty, which has hitherto impeded a satisfactory settlement of the case.

"It appears to Her Majesty's Government that this object would be best attained by the appointment of a Commission to examine and report upon the fair amount of compensation which would be due to Mr. Ryland under the terms of Lord Sydenham's guarantee.

"Should it appear from their Report, that a certain amount of compensation is still due to Mr. Ryland, Her Majesty's Government would be prepared to propose to Parliament to share equally with Canada the burthen of providing for the payment of that amount to Mr. Ryland."

12. The Canadian Government acceded to the proposal that a Commission should be appointed, but with the understanding that it should not be thereby pledged to pay any part of the compensation.

13. Mr. Carter, Chief Justice of New Brunswick, was appointed Commissioner. The basis of that gentleman's award, which by no means met the expectations of Mr. Ryland, was the guarantee of Lord Sydenham already quoted. The Chief Justice in his award makes the following observations, viz.:—

* * * * * * *

"The construction of this guarantee is perfectly clear, and free from any doubt. It guarantees Mr. Ryland an annual income of £515 currency, to be derived from the emoluments of some public office, or to be made up from some other source, in the event of these emoluments not being equal to that amount, and in furtherance of such guarantee, the Registrarship of Quebec is offered to Mr. Ryland."

* * * * * * *

"I proceed to state the principle on which it appears to me the amount due to Mr. Ryland, under Lord Sydenham's guarantee, should be ascertained, and the result of the application of that principle. I have already stated what appears to me the plain and obvious construction of that guarantee, viz.: to secure to Mr. Ryland a clear annual income of £515 currency. It was, therefore, necessary to ascertain in each year, since the giving of the guarantee, whether the profits of his office have been equal to that amount, and, if not so, how much has been the deficiency, wherever there has been such deficiency. I think Mr. Ryland should be allowed such an amount as would have made up his income for the year to £515, and interest on such amount from the end of each year. Mr. Ryland has received, since his relinquishment of the office of Clerk of the Executive Council, the annual sum of £111 from the Canadian Pension Fund, which, I think, ought, *pro tanto*, to be taken as fulfilment of the guarantee. The payment did not commence till 1845, when three years' arrears were paid, and, I think, Mr Ryland should be allowed interest on £111 for those years. This allowance seems to have been suspended from the end of 1845 till the commencement of 1851, when the arrears were paid, and I think interest should be allowed for that period. In ascertaining the amounts of annual receipts and expenditure in the offices held by Mr. Ryland at Quebec and Montreal, I have been, of necessity, obliged to rely on the returns made to the Canadian Government and the books of the offices, nor have I the least reason to doubt the correctness of the statements derived from these sources."

* * * * * * *

"I annex to this report a sheet marked (K), showing the manner in which I have ascertained the amount of £7,735 12s. 6d. currency, which amount I beg to report as what appears to me the fair amount of compensation due to Mr. Ryland, under the terms of Lord Sydenham's guarantee, up to the end of the present year (1856). I am not at all sure that my instructions require me to go any further than this, but inasmuch as Mr. Ryland may have future claims, under Lord Sydenham's guarantee, should his office, in future years, not yield him an income of £515 currency, I venture to make one or two suggestions for the immediate settlement of future claims. One mode which might be adopted, with the sanction of the Canadian Government, would be to increase Mr. Ryland's allowance of £111 per annum to £515 from the Pension Fund of Canada, on Mr. Ryland resigning his present office. Should this not be practicable, as I find the average amount for the last seven years, chargeable under Lord Sydenham's guarantee, would be about £140 per annum, I should

say that if a sum of £1,264 7s. 6d. were added to what I have already reported as due in the past, making in all the gross sum of £9,000 currency, that would be a fair and proper amount to be paid to Mr. Ryland as a final settlement of all his claims under the guarantee of Lord Sydenham, the annual allowance of £111 from the Pension Fund being, of course, continued."

14. It will be observed that Chief Justice Carter took the view (which appears to be clearly correct) that the compensation to be given to Mr. Ryland under Lord Sydenham's arrangement was as follows:—

1. That he should become the Registrar of Quebec, for which office the Registrarship of Montreal was afterwards substituted.

2. That in case the emoluments of the office should in any year not yield him £515 currency, being the amount of the retiring allowance to which Mr. Ryland was, at the time of the arrangement, entitled, that amount should be made up to him.

3. That the Canadian pension of £111 received by Mr. Ryland should be taken, *pro tanto*, as a fulfilment of this guarantee.

Chief Justice Carter, upon this basis, calculates the amount due up to the end of 1856 at £7,735 12s. 6d. currency, and basing the calculation of the emoluments of the Registrarship of Montreal for the future, upon the average of the preceding seven years, he estimates a gross sum of £1,264 7s. 6d. as being the capitalized value of the future claims of Mr. Ryland, by reason of future deficiencies in these emoluments.

15. The Imperial Government determined to accept, in the terms of Lord John Russell's Despatch, the award of Chief Justice Carter.

16. The Canadian Government at first declined to bear any portion of the expense, but ultimately, on the 27th October, 1858, they advised that Parliament should be recommended to pay Mr. Ryland one half of the award. This recommendation was made and acted upon.

17. It seems then, that the compensation to Mr. Ryland consisted in part of the office to which he was appointed, and, in addition, of a money payment to meet the amount by which the annual emoluments of the office might be less than his retiring allowance; that the money payment was finally settled by the award of Chief Justice Carter, and that to deprive Mr. Ryland of his office would be to disturb the arrangement.

18. It is quite plain that the private or vested interests of an individual are not to be suffered to over-ride the interests of the public, and that Governments and Legislatures are entitled, notwithstanding the existence of such private or vested interests, to alter the compensation of public officers in whatever way the public good may demand; but, even where the public officer has received his appointment in the ordinary way, and not as a matter of contract, it seems to be the general rule that he should receive reasonable compensation for the individual loss inflicted on him by the change.

19. This rule is, however, subject to modification, when it is considered that salaries have become excessive, or that the fees of an office have increased beyond reasonable limits, in which cases reductions have occasionally been made without compensation. Besides, a violation of this general rule, in matters purely local, would not, by itself, furnish ground for disallowance.

20. Mr. Ryland, however, puts his case on somewhat a higher ground, pointing out that he was absolutely entitled to a retiring allowance of a considerable amount, and that it was, in part, compensation for this allowance, that he received his office.

Interference with his emoluments, under such circumstances, may be fairly said to be open to objections more serious than those which might apply were he an ordinary office-holder; and, certainly, in case the public good requires such interference, it should be accomplished in such a manner as to do the individual the least possible injury.

21. By the statements which the undersigned has quoted it would appear that, under the Act in question, Mr. Ryland's registration district is to be divided into three parts. That the more valuable and remunerative divisions are to be taken

away, and that he is, without compensation for the loss of the others, to remain Registrar of the least valuable, and, as he alleges, an absolutely unremunerative division.

21. Thus, both the general rule to which the undersigned has adverted and the special circumstances of Mr. Ryland's case, appear to have been ignored.

No provision is made to compensate him for the loss he must sustain by the withdrawal of any part of his district.

Circumstances may be conceived which might justify the absence of such a provision; but he is not even retained as the Registrar of the most valuable of the new districts, and the undersigned is unable to reconcile with a just appreciation of Mr. Ryland's position, the abstraction from him, in order to confer it on another, of all that makes his office valuable.

22. Upon the petition of the landed proprietors, capitalists and other citizens of Montreal, the undersigned would observe:

That the signatures to this petition are of the most respectable and weighty character, and that its representations do certainly deserve the greatest consideration at the hands of those entrusted with Legislative power in the matters to which they relate. These matters, however important, are nevertheless essentially of a local character.

The representations should be addressed to the Government and Legislature of the Province of Quebec, and had they stood alone, the undersigned could only have recommended the reference of the petitioners to the Local Government and Legislature.

23. But under the peculiar circumstances which attend the case of Mr. Ryland, involving, as the discussions show, the unsettlement of arrangements of long standing, in which the Imperial as well as the Colonial Governments were concerned, raising also plausible claims for consideration, and, as Mr. Ryland insists, strong claims for compensation at the hands of the Imperial Government, of the Canadian Government, which is bound to meet the pecuniary liabilities of the late Province, and of the Governments of Ontario and Quebec, which are bound practically to indemnify the Canadian Government in respect of any such pecuniary liabilities, the undersigned, who is disposed to believe that the considerations to which he has adverted cannot have been brought to the attention of the Local authorities, would recommend that they should be afforded the opportunity of reconsidering the legislation in question, with the light thrown upon it by the Petitions and representations before him.

24. Such a course will have the incidental advantage of giving an opportunity to consider also the representations of the general petitioners against the Legislation.

25. The Act, although passed on the 23rd February, 1875, has not yet been put in force. It would, therefore, appear that there is no urgent necessity for its being acted upon, and the Local Legislature is summoned for despatch of business on the 10th day of November next, so that it will be possible before the period arrives for determining as to its disallowance, to take the sense of the Legislature on the question of its amendment or repeal.

The undersigned is not to be understood as having come to a final conclusion on the question whether Mr. Ryland would, on the passing of such an Act, have pecuniary claims capable of being forced against the Government referred to, or whether such an Act, if passed with full knowledge and after full consideration of the facts, should be persistently disallowed.

These are questions which, he ventured to hope, would not arise, and the authoritative determination of which it would, he submits, be better to postpone.

26. The undersigned recommends that a copy of the Petition of the inhabitants of Montreal, to which he has referred, and of this Report, should be transmitted to the Lieutenant-Governor of Quebec, for the information of his Government, with the request that the subject should be considered, and that His Excellency should be informed before the expiration of the time for determining as to whether the Act should be disallowed, of the views of the Local Government, and whether it is pre-

pared to invite local legislation to repeal the Act, or to amend it in any, and what particulars.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October,* 1876.

The Committee of the Privy Council have had under their consideration a Report of the Minister of Justice upon an Act passed by the Legislature of the Province of Quebec, in the 38th year of Her Majesty's reign, assented to on the 23rd February, 1875, for the purpose of dividing the Registration Division of Montreal into three Registration Divisions, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof and of the petition of the inhabitants of Montreal, therein alluded to, be transmitted to the Lieutenant-Governor of the Province of Quebec, as recommended.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Secretary Scott to the Lieutenant-Governor of Quebec.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 26th October, 1876.

SIR,—I have the honor to forward you herewith annexed, for the information and consideration of your Government, copies of a petition from the citizens of Montreal, as well as an Order of the Honorable the Privy Council, dated the 25th October instant, and of a Report of the Honorable the Minister of Justice, respecting a certain Act passed by the Legislature of the Province of Quebec, on the 23rd February, 1875, to divide the Registration Division of Montreal into three Registration Divisions.

I beg that you will kindly let me know, for the information of His Excellency the Governor General, before the time for disallowing the said Act has expired, what are the views of the Local Government, and whether it is prepared to bring forward local legislative measures to repeal the said Act, or to amend it in any way, and in what respect.

I have, &c.,
R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant Governor, Quebec.

Lieutenant-Governor Caron to the Secretary of State of Canada.

GOVERNMENT HOUSE, QUEBEC, 6th November, 1876.

SIR,—I hastened to submit to my Government the Order of the Honorable the Privy Council, bearing date the 25th October instant, as well as the Report of the Honorable the Minister of Justice, and the petition of the citizens of Montreal, respecting the Act of the Legislature of Quebec, 38 Vict., Chap. 17: "To divide the Registration Division of Montreal into three Registration Divisions,"—and upon the

advice of my Ministers, the honorable members of the Executive Council of the Province, I have the honor to submit for the gracious consideration of His Excellency the Governor General, the following remarks:—

My Government has always endeavored, with respect to the measures which it submitted to the Legislature of the Province of Quebec, to confine itself within the limits assigned to it by the British North America Act, 1867; and the Statute respecting the Registration Division of Montreal, assented to on the 23rd December last, is, especially, wholly within the classes of subjects for Legislation, which are exclusively assigned to it by the Imperial Act aforesaid.

Before submitting to the Legislature the measure in question, my Government knew perfectly the position of the former Registrar of Montreal; but, in order to become acquainted with that position in a more full and satisfactory manner, in order clearly to ascertain whether the public interest demanded changes in the state of affairs then existing in the Registration Division, and in order to avoid committing an injustice towards the Registrar, as well as to ascertain the manner in which the latter carried out the duties of his office, an enquiry was ordered by an Order in Council of the 21st December, 1874, and that enquiry closed on the 7th January, 1875, during the very Session in which the measure was introduced.

From the evidence adduced in this enquiry, as well as from the information already in the possession of the Government, the measure was considered necessary, and in consequence it was submitted to the Legislature and passed by it on the 17th February, 1876.

Mr. Ryland, who now complains of this measure, had all the time necessary to present to the Quebec Legislature the objections which he alleges he has to raise against that legislation, and the allegation made by Mr. Ryland, and by the signers of the petition submitted to His Excellency, that this legislation was carried through "in a precipitate manner and without regard for the desires and interests of the public," is entirely gratuitous.

My Government maintain that the Registration Division, of which Mr. Ryland is to remain titulary, far from being unremunerative, yields and will hereafter continue to yield an income, more than sufficient to represent the pecuniary equivalent established by the award of Chief Justice Carter, on the guarantee of Lord Sydenham. And if Mr. Ryland had asked in the ordinary way in such cases, the redress of an alleged grievance of which he complains, he would have been allowed to furnish evidence to the contrary, and to show that his office, as reduced by the new legislation, would no longer represent that pecuniary equivalent.

Last Session (39 Vic.), with a new representation, resulting from the general elections of 1875, also went by, without Mr. Ryland thinking proper to enter any protest or make any complaint.

I shall take the liberty in this connection of asking His Excellency's special attention to the strange course pursued by Mr. Ryland, who refuses or neglects to submit his grievances to the Legislative Tribunal accessible to every citizen, and then comes forward and asks for the disallowance of a law, which he did not think proper to oppose. If Mr. Ryland is suffering a wrong which he maintains to have been caused by an Act of the Legislature, should he not, in the first place, claim compensation from the power which inflicted it on him? While affirming the principle that the Government and the Legislature possess the absolute right to determine the compensation to be awarded to the subject whose personal interests are injured by a Legislative Act, the Government of Quebec maintain that, in this case, it was not their intention, and that they did not, in fact, deprive Mr. Ryland of the pecuniary compensation which he might claim in virtue of Lord Sydenham's promises, and of the award of the Commissioner, Chief Justice Carter. Far from it, my Government have up to this moment refrained from acting on their undeniable right, which they might have exercised in view of the facts brought to their knowledge, of entirely cancelling Mr. Ryland's commission as a public officer.

My Government are desirous of faithfully respecting the engagements entered into by those who preceded them in power; but, on the other hand, they must

jealously guard the immunities of the Provincial Legislature, when that body acts within the constitutional limits assigned to it; and I respectfully submit to His Excellency that, in this case, the Legislature of Quebec has not over-stepped those limits.

The essentially local character of the measure not being contested, and the facts represented by Mr. Ryland in support of his petition being incorrect, in their most important part, I would respectfully represent to His Excellency, that my Government could not, with a due regard to its own dignity and to the respect it owes to the Legislature, propose the repeal of the law in question.

I desire, in conclusion, to assure His Excellency, that the Government of the Province of Quebec is quite disposed to do full and entire justice to Mr. Ryland, and that the share of obligations to which the Province is in honor bound by the engagements mentioned by the Honorable Minister of Justice in the Report transmitted to me, has hitherto been, and will hereafter be, honorably and scrupulously fulfilled.

I have, &c.,
(Signed) ED. CARON,
Lieutenant-Governor.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 10th November, 1876.

Upon the Despatch of the Lieutenant-Governor of Quebec of the 6th November, 1876, referring to the Order in Council of the 25th October, 1876, with reference to the Act for the purpose of dividing the Registration Division of Montreal into three Divisions, the undersigned begs to report as follows :—

Without entering into a minute analysis of the representations, and not desiring to be understood as concurring in all the views put forward, the undersigned submits that these representations give a different complexion to the case, from that given by Mr. Ryland.

His Excellency has no satisfactory means for investigating further into the accuracy of that gentleman's statements, and under the circumstances, as between the assertions of a Provincial Government and an interested individual, faith and credit must be given to the representations of the former.

The undersigned is not without apprehension that difficulties may arise from the measure, and he would have felt greater embarrassments as to the course to be recommended, but for the assurances contained in the Lieutenant-Governor's Despatch, that his Government is desirous of respecting faithfully the engagements made by the powers which preceded it, and from which it springs; and is altogether disposed to accord full and entire justice to Mr. Ryland, and that the share of the obligations to which the Province is in honor bound by the engagements of which the undersigned speaks in his Report, has been, and will for the future be, honorably and scrupulously fulfilled.

The undersigned foresees the probability of a divergence of opinion as to the nature and extent of the engagements, and of the action of the Provincial Government and Legislature on the question, but he submits that it must, after these assurances, be assumed that right will be done.

The undersigned has, throughout, fully recognized the local character of the Act in question, and the view that its policy is for the consideration of the Local Legislature, he submits that the representations and assurances contained in the Lieutenant-Governor's Despatch so far mitigate, even though they may not altogether remove, the special difficulties adverted to in his former report, as to render it proper not to interfere with the operation of the Act, and he recommends accordingly.

He recommends further, that Mr. Ryland should be informed that His Excellency has not thought fit to exercise the power of disallowance in reference to this Act.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th November*, 1876.

The Committee of Council have had under consideration a Report dated 10th of November, 1876, from the Hon. the Minister of Justice, upon the Despatch of the Lieutenant-Governor of Quebec, of the 6th November, 1876, referring to the Order in Council of the 25th October, 1876, with reference to the Act for the purpose of dividing the Registration Division of Montreal into three Divisions, and they concur in the views and recommendations therein submitted, and advise that the same be approved and acted upon; they further advise that a copy of this Minute and of the Report of the Minister of Justice, be transmitted to the Lieutenant-Governor of Quebec.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Ryland to the Secretary of State of Canada.

MONTREAL, 17th December, 1876.

SIR,—On Tuesday last I received through Mr. Assistant Secretary Langevin an official communication, dated the 11th instant, stating that "His Excellency the Governor General in Council, having had under consideration the petition from certain members of the legal profession and other citizens of Montreal, in reference to the Act passed by the Legislature of the Province of Quebec in the year 1875, for the purpose of dividing the Registration Division of Montreal into three divisions, and that His Excellency had not thought fit to exercise the power of disallowance in reference to this Act.

Promising that this reply should have been sent to the three Members representing Montreal, through whom the petition and question was forwarded to His Excellency the Governor General in Council, in order that the Memorialists might be enabled to give publicity to the decision through the general press of the country, I would call your attention to the fact that I have not yet, as I had reason to hope, received any reply to my own remonstrance and petition, praying protection in vested rights, under the arrangement between the Imperial Government and myself, which was specially referred to the Minister of Justice for report.

As the recent decision of the Governor in Council on the petition of the people of Montreal may be considered as sanctioning the Act of the Quebec Legislature, I would beg to be informed to whom I am to look for compensation, the Imperial Government, to whom I have been prevented from appealing, or the Dominion Government, whose action in this matter overrides and renders nugatory in Canada, the authority of the British Crown.

I have, &c.,

(Signed) G. H. RYLAND.

The Hon. R. W. SCOTT,
Secretary of State, &c., &c., &c.

Mr. Under Secretary Langevin to Mr. Ryland.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
OTTAWA, 21st December, 1876.

SIR,—I am directed to acknowledge the receipt of your letter of the 17th inst., in reply to my communication of the 11th inst., conveying to you the decision of His Excellency the Governor General in Council, with reference to the Act of the Quebec Legislature dividing the Registration Division of Montreal into three divisions, and calling attention to the fact that you have not received a reply to your petition praying protection in alleged vested rights, under an arrangement between the Imperial Government and yourself.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

GEORGE H. RYLAND, Esq.,
Registrar, Montreal.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th October, 1876.

With reference to the Statutes of Quebec, passed in the fourth Session of the Second Legislature (38th Vic.), 1875, the undersigned begs to report as follows:—

Chapter 28. "An Act to amend the Act concerning the erection and division of parishes and the building and repairing of churches, parsonage houses and church yards and fabrique meetings (C.S.L.C., Cap. 18) and to detach a certain territory from the Mission of the Lake of the Two Mountains, and to annex the same to the Parish of the Patronage of St. Joseph, for civil purposes."

This Act alters some provisions of the Consolidated Statutes for Lower Canada, Chapter 18, regulating the procedure for the erection and division of parishes, and the building and repairing of churches, &c., by permitting the revocation, on the demand of the majority of the inhabitants of the decree, allowed by the Commissioners in such matters, and by making some minor amendments. The 4th section provides that a part of the territory should be detached from the Mission of the Lake of Two Mountains and attached to the Parish of the Patronage of St. Joseph for all civil purposes, as described in the canonical decree of the Bishop of Montreal, bearing date the 26th August, 1874. This section appears in effect to accomplish a change which could have been made under certain regulations by the existing law. Somewhat similar Legislation has already taken place, as appears by the Consolidated Statutes already referred to; the undersigned refers to his observations to be made with reference to Chapter 29, and does not recommend any interference with the operation of the Statute.

Chapter 29. "An Act to amend Chapter 18 of the Consolidated Statutes of Lower Canada."

This Act, after reciting that the civil erection under the Chapter referred to, of certain parishes situated partly in the County of Hochelaga, would have the effect of establishing new municipalities in a territory already organized for Municipal purposes, and that it is not advisable that the civil erection of such parishes should produce such effect, declares these parishes to be and recognizes them as Catholic parishes, to the same effect as if they had been recognized, erected and ratified for all civil purposes under the Statute referred to, save that nothing in the Act is to have the effect of modifying in any manner, the limits of the City of Montreal and of the several other Municipalities in which such parishes are situated, and that such Municipalities are to continue to exist with their limits and extent, as if the Act had not been passed.

The 3rd section provides that each parish thus recognized, is so recognized subject to the provisions contained in the decree of erection relating to it, as amended by the Holy See and published in 1874 in such parish. This provision, applying as it does to a decree already known and published in its amended form, appears to be founded substantially on precedents to be found in the Consolidated Statutes of Lower Canada.

The Legislature must be presumed to have confirmed these instruments after due consideration of their effect.

Some misapprehension has been created as to the meaning of this clause, from the inaccurate description of the clause used in the breviate which, however, of course does not alter its true operation.

The 4th Section provides that the meetings for the election of churchwardens, for the rendering of accounts, and for all purposes requiring general parish meeting in these parishes, shall consist of the old and of the new churchwardens, and of the persons elected in compliance with the ordinance of the Bishop, to form the board or body of the fabrique.

This section appears to provide for these particular parishes, a different system from that which, under the Consolidated Statutes, is applicable to Roman Catholic parishes generally ,throughout Quebec, though the exact nature and extent of the divergence is not disclosed.

The attention of the undersigned has been called to a probable inconvenience which would arise from a departure, in particular cases, from the general well-known and satisfactory system provided by the Statute, but however grave this inconvenience may be, the undersigned presumes that this enactment (made as it was, with reference to a certain specified ordinance) was framed after due investigation and after due opportunity given to the parties affected, to present their views, and upon particular ascertained circumstances differing these from the other parishes, and the undersigned does not recommend any interference with the operation of the Statute.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th November*, 1876.

The Committee of Council have had before them the Report hereunto annexed, from the Honorable the Minister of Justice, with reference to two certain Statutes passed by the Legislature of the Province of Quebec in the Session thereof held in the year 1875 (38th Vic.) and Chaptered 28 and 29 respectively, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof and of this Minute, be transmitted to the Lieutenant-Governor of the Province of Quebec.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Telegram from Mr. Secretary Scott to the Administrator of the Government of Quebec.

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 15th November, 1876.

To His Honor the Administrator of the Government, Quebec :

Please inform me, for information of His Excellency, whether it is proposed, with reference to Order in Council of 25th of October, 1876, relative to the Provincial Acts of 1875, to promote amendatory Legislation with respect to the Acts objected to, particularly Chapters 79 and 81. Please reply by telegraph.

(Signed) R. W. SCOTT,
Secretary of State.

Reply.

QUEBEC, 16th November, 1876.

By Telegraph from Quebec
To the Secretary of State :

In answer to your telegram of yesterday, I beg to state, for the information of His Excellency, that a reply to Order in Council of 25th October last, relating to Acts of the Province of Quebec, passed in 1876, is in course of preparation, and will shortly be forwarded. Amendments to Chapters 79 and 81 will be proposed and passed during present Session.

(Signed) A. A. DORION.
Administrator.

Administrator of Government of Quebec to Secretary of State.

GOVERNMENT HOUSE, QUEBEC, 17th November, 1876.

SIR,—I have the honor to state, for the information of His Excellency the Governor General, that in accordance with the Order of the Honorable the Privy Council for Canada, dated 25th October, 1876, it is the intention of the Government of the Province of Quebec to introduce, during the present Session of the Legislature, two Bills for the purpose of amending Chapters 79 and 81 of the Acts sanctioned on the 23rd February, 1875.

I have, &c.,

(Signed) A. A. DORION
Administrator.

To the Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th November, 1876.

With reference to the Minute of Council of 25th October, 1876, upon the subject of certain of the Quebec Statutes, 38 Victoria, 1875, the undersigned begs to report that no communication beyond a formal acknowledgment having been received from the Lieutenant Governor of Quebec, with reference to the observations made in the Report of the undersigned approved by the said Minute, a telegram was, on the 13th instant, despatched by the Secretary of State to the Administrator of Quebec, as follows:—

"Please inform me, for the information of His Excellency, whether it is proposed, with reference to Order in Council of 25th October, 1876, relative to the Provincial Acts of 1875, to promote amendatory legislation with respect to the Acts objected to, particularly Chapters 79 and 81. Please reply by telegraph."

To which was received, on the next day, the following reply:—

"In answer to your telegram of yesterday, I beg to state, for the information of His Excellency, that a reply to Order in Council of the 25th of October last, relating to Acts of the Province of Quebec, passed in 1876, is in course of preparation, and will shortly be forwarded.

"Amendments to Chapters 79 and 81 will be proposed and passed during the present Session."

Thereupon the following telegram was despatched by the Secretary of State to the Administrator:—

"Reply referred to in your telegram to-day should be forwarded at earliest moment, so that His Excellency may consider it before the time for dealing with the Act expires. His Excellency trusts reply will be mailed to-morrow."

And this day has been received a despatch from the Administrator, repeating the information contained in the telegram, that it was the intention of the Government of the Province of Quebec to submit to the Legislature Bills, with a view to amending Chapters 79 and 81 of the Acts referred to.

No communication has been made as to the intention of the Government with reference to some other Acts objected to, and the time within which disallowance can take place expires so shortly, that it is necessary to deal at once with the matter.

It would have been more satisfactory had fuller information been conveyed to His Excellency as to the intentions of the Provincial Government with reference to the several Acts objected to, but having regard to the communications which have been received, and to the nature of the objections, the undersigned recommends, in reliance upon the assurances contained in these communications, that the several Acts should be left to their operation.

It is proper to add that, although in the telegraph communication to the Administrator, special attention was called to two of the Statutes, in consequence of the character of the objections taken to them, these are not the only Acts objected to, and it is hoped that the attention of the Government will be also directed to the other Acts objected to.

The undersigned recommends that the result of this Report be communicated to the Lieutenant-Governor of Quebec.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st November*, 1876.

The Committee of Council have had under consideration the Memorandum hereunto annexed from the Hon. the Minister of Justice, having reference to certain Acts passed by the Legislature of the Province of Quebec, and which were the subject of the Order in Council of the 25th October last, and they respectfully advise that, for the reasons given in the said memorandum, the said Acts be left to their operation.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 39TH VICTORIA, 1875.

1ST SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd September, 1876.

With reference to the Statutes of the Legislature of Quebec, passed in the 38th Victoria, 1875, the undersigned begs to report as follows :—

The following Acts do not appear to call for remark, or for the exercise of the power of disallowance :—Chapters 1, 3, 4, 8 to 18 inclusive, 21 to 32 inclusive, 34, 37, 38, 39, 40, 44, 46, 47, 48, 49, 51, 52, 53, 54, 55, 57, 58, 59, 61, 65 to 75 inclusive, and 77 to 88 inclusive.

Chapter 2. "An Act respecting the construction of the Quebec, Montreal and Occidental Railway."

This Act provides for the construction, as a public work of the Province of Quebec, of a railway from the Port of Quebec to such point in the County Pontiac as may be most suitable for connecting hereafter the said Railway with the subsidized portion of the Canada Central Railway, and with any other railway, as the Lieutenant-Governor in Council may hereafter decide.

The 22nd Section authorizes the Commissioners to make arrangements with the Canada Central Railway Company for the extension of the Canada Central Railway from the eastern terminus of the subsidized portion thereof, or from such other point of junction, with the subsidized portion thereof as may be selected, to the Ottawa River, opposite the western terminus of the railway thereby authorized to be constructed, or for the construction of a bridge over the said river, or to make arrangements for the transit of rolling stock, &c., over the Canada Central and Canada Pacific Railways.

The Act does not purport to, nor could the Local Legislature give power to the Canada Central Railway Company, to enter into the contemplated arrangements, and though it may perhaps be questionable whether the authority given to the Commissioners is not more extensive, than can properly be given by the Provincial Legislature, yet having regard to the 23rd Section, which expressly contemplates the authorization by the Parliament of Canada of any construction outside of the Province of Quebec by the Commissioners, the undersigned does not recommend the disallowance of the Act.

The 43rd Section invests the railway to be constructed under the Act, so far as the Legislature can do so, with all the rights, franchises, &c., granted by the Parliament of Canada to the Montreal, Ottawa and Western Railway Company.

It would seem that the Local Legislature cannot affect the transfer of the franchises, and some, at any rate, of the rights granted by the Parliament of Canada to the Montreal, Ottawa and Western Railway Company, and therefore this clause, although guarded in its language, is not free from objection.

Chapter 5. "An Act to amend the Act 38 Victoria, Chap. 4, respecting the Manufacture of Sugar from Beet Root."

This Act increases to $7,000 from $5,000 the annual subsidy for this purpose. The undersigned refers to his Report upon the original Act, but does not recommend disallowance.

Chapter 6. "An Act to further amend the Quebec License Act (34 Vic., Chap. 2), and the several Acts amending the same, and to extend the application thereof."

This Act contains some provisions open to the same questions as has been already stated in several Reports to be *sub judice*, as to the competency of the Local Legislatures to affect trade and commerce by such legislation.

The undersigned suggests that for the reasons given in other cases the Act should not be interfered with.

Chapter 20. "An Act respecting the compilation of Statistics of Births, Marriages and Causes of Death in the Province."

This Act deals with the subject of Statistics, but similar legislation has been suffered to go into operation in other Provinces, and the undersigned recommends that this Act should be left to its operation.

Chapter 33. "An Act to amend and consolidate the various Acts respecting the Notarial Profession in this Province."

Section 7 provides that any person assaulting a Notary in the execution of his duty, or opposing him therein, is guilty of a misdemeanor, and may, on conviction, be condemned to the same punishment, as if he had been convicted of an assault on a peace or Revenue officer in the execution of his duty. This section trenches upon the Criminal Law, and the undersigned recommends that the attention of the Lieutenant-Governor should be called to it, with a view to its repeal, before the time arrives within which the Act can be disallowed.

Chapter 41. "An Act to annex certain portions of the Township of Shawinigan, in the County of St. Maurice, to the Parish of St. Flore, in the County of Champlain, for School, Municipal and Registration purposes, and for the purposes of Parliamentary representation."

The undersigned refers to his Report upon Chapter 7 of the Statutes of the preceding Session, with reference to the use of the word "Parliamentary," and recommends that the attention of the Lieutenant-Governor be called to the section, with a view to its amendment.

Chapter 42. "An Act to detach a certain portion of the County of Lotbinière and to annex it to the County of Beauce for School, Municipal and Registration purposes, and for those of Parliamentary representation, and to civilly erect the Parish of St. Séverin."

The use of the word "Parliamentary" is objectionable, as suggested with reference to Chapter 41; and the undersigned suggests the adoption of the same course.

By this Act the Parish of St. Séverin, as erected for religious purposes by a decree of the 20th September, 1872, of the Archbishop of Quebec, is recognized in as

full and complete a manner for all civil purposes whatever, as if it had been erected under Chapter 18 of the Consolidated Statutes of Lower Canada.

The undersigned refers to the remarks he has already made in his Reports on the Statutes of this and of the preceding Session on similar legislation, and recommends that this provision should be left to its operation.

Chapter 43. "An Act to detach a certain part of the County of Bellechasse and to annex the same to the County of Montmagny for Parliamentary, Registration, Municipal and School purposes," is objectionable in its title, and in the language used in the 1st and 3rd Sections, for the reasons referred to in the case of Chapter 41, and the undersigned recommends the adoption of the same course.

Chapter 45. "An Act to erect the Village of Bagotville in a separate municipality."

Section 4. "The Municipal Council of the said Village may impose upon merchants and traders, strangers to the said Municipality, and who trade there, such duties and taxes as the Council may deem expedient, and compel them to pay for their license the sum so imposed."

Under this Section taxation of an extremely objectionable kind might take place, and the undersigned would be disposed to recommend that the attention of the Lieutenant-Governor should be called to the Section, with a view to its repeal or amendment, but for the fact that several Provincial Acts had been left to their operation, giving somewhat similar powers to Councils of Municipalities;

Under these circumstances, it seems better not to interfere with legislation of the same character, when confined to the action of Municipal bodies, at any rate, until experience demonstrates that an improper use is being made of the power; but the undersigned thinks that any extension of the principle not sanctioned by previous precedents, would require grave consideration.

Chapter 50. "An Act to incorporate the City of Sherbrooke."

Section 33, sub-section 4, which authorizes the Council to pass By-laws for preventing thefts and depredations which may be committed at any fire in the City, and for punishing any person who shall resist or ill-treat any officer or member of the Council, appears to trench upon the Criminal Law.

Section 43 provides for the punishment of proprietors or agents, wilfully granting false certificates or receipts, and tenants presenting false certificates or receipts, the offence would seem to come within Section 110 of the Larceny Act, and the Section appears to trench upon the Criminal Law.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to these Sections.

Chapter 56. "An Act to amend the Act incorporating the Montreal, Portland and Boston Railway Company."

By the Act of the Legislature of Quebec, 35 Victoria, Chap. 29, 1871, the Montreal, Chambly and Sorel Railway Company was incorporated for the purpose of constructing a railway from Sorel, by Chambly, to Montreal, and from Montreal to the Province Line at or near Philipsburg, with the right of constructing the railway on either or partly on both sides of the River Richelieu, and for building a bridge across that river, with certain provisions with reference to the Grand Trunk Railway.

By the Act of the same Legislature, 1872, 36 Vic., Chap. 46, some minor amendments were made in the Act of Incorporation.

By an Act of the Parliament of Canada, 36 Vic., Chap. 87, 1873, it was recited that the Railway Company, incorporated under an Act of the Legislature of the Province of Quebec, had prayed for power to issue promissory notes, and to enter into and conclude agreements and arrangements with foreign railway companies; and it was enacted as follows:—

1. The railway was declared to be a work for the general advantage of Canada.

2. The Company was empowered to become parties to promissory notes and bills of exchange for sums not less than $100; any such promissory note, made or endorsed, and any such bill of exchange drawn, accepted or endorsed by the Presi-

dent or Vice-President of the Company, and countersigned by the Secretary and Treasurer of the Company, and under the authority of a majority of a quorum of the Directors, to be binding on the Company; such note or bill of exchange to be presumed to have been made with proper authority until the contrary be shown; in no case was it necessary to have the seal of the Company affixed to any such note or bill of exchange, nor were the President or Vice President, or the Secretary and Treasurer individually responsible for the same in any manner, unless when issued without the authority of the Board of Directors—such promissory notes or bills of exchange were not to be payable to bearer, or to be of a nature to be used as money, or as the bill or note of a bank.

3. The Railway Company was empowered to lease the railway in whole or in part, or for leasing to, or from, any Canadian or foreign railway company any railway or any part thereof, or for leasing from such company or companies any bridges, &c., and also gives other powers.

By an Act of the Parliament of Canada, passed in 1875, 36 Vic., Chap. 70, the name of the Company was changed to the "Montreal, Portland and Boston Railway Company."

The Act now under consideration makes some changes in the Act of incorporation, and gives some powers to the Directors of the Company.

By the British North America Act, Section 92, the powers of Provincial Legislatures, with reference to local works and undertakings are expressly declared not to extend to the works which before or after their execution, are declared by the Parliament of Canada to be for the advantage of Canada, or for the advantage of two or more of the Provinces.

The embarrassment and confusion which would result from concurrent legislation under the circumstances detailed are too obvious for argument.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to this Act with a view to its repeal before the time arrives within which it must be disallowed.

Chapter 60. "An Act to incorporate the Patriotic Insurance Company of Canada."

The 7th Section of this Act authorizes the Company to make contracts of life insurance with any person or persons, and to carry on the business of life insurance in all branches and modes of conducting the same, and on any plan or principle as the Directors may determine and direct, and generally to enter into any transaction depending upon the contingency of life, and on all other transactions usually entered into by Life Insurance Companies; and also to insure against loss by fire or the perils of the sea and inland navigation.

Upon this Act the undersigned refers to his Report upon Chapter 81 of the Statutes of Quebec of the preceding Session, and recommends that the attention of the Lieutenant-Governor should be called to the wording of this clause with a view to its amendment, so as to limit the operations of this Company before the time arrives for deciding as to its disallowance.

The 27th Section provides that any secretary, clerk or other officer of the Company, guilty of any designed fraud or falsehood in any matter or thing pertaining to his office or duty, shall be guilty of a misdemeanor, and any person falsely personating another, at any election of directors for the Company, or signing, or affixing the name of any other person, a member of the Company, to any appointment of a proxy, shall be guilty of a misdemeanor.

The 28th Section provides that in any suit and prosecution in which the Company may be at any time engaged, any officer or stockholder in the said Company shall be a competent witness.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to these sections, with a view to the repeal of Section 27, and the amendment of Section 28, as trenching on the Criminal Law.

Chapter 62. "An Act to change the name of 'The Provincial Permanent Building Society' to that of 'The Provincial Loan Company,' and to extend the powers thereof."

The 9th Section authorizes the Company to make advances to any person, &c., upon securities, at such rates of discount or interest as may be agreed upon. The 11th Section authorizes the Company to receive money on deposit, and also to pay such rate of interest as may be deemed advisable.

It is questionable whether this is not an interference with the law of interest and *ultra vires*, and the undersigned suggests that the attention of the Lieutenant-Governor should be called to it.

Chapter 63. "An Act to change the name of the 'Montreal Permanent Building Society' to that of the 'Montreal Loan and Mortgage Company,' and to extend the powers thereof."

The 11th Section authorizes the Company to receive money on deposit, and to issue debentures bearing such rate of interest as may be deemed advisable.

To this provision the observation made on Chapter 62 applies.

Chapter 64. "An Act respecting a Company incorporated under the name of 'Le Crédit Foncier du Bas-Canada'." The preamble recites that, whereas, the Company, a body politic and corporate, and duly incorporated under the Statutes of Canada, 36 Victoria, Chap. 102, have by petition represented that it is in the interest of such corporation, as well as in that of the public, that their Act of Incoporation should be recognized by the Legislature of Quebec, and the powers granted to them should be confirmed and legalized within the Province of Quebec, in so far as that Legislature can grant powers to the said corporation, and that great advantages would result to the public, &c., and have prayed for the passing of an Act recognizing that incorporation, and confirming within the limits of the Province the powers conferred upon them, in so far as this Legislature can grant such powers; and, whereas, it is expedient to grant the prayer of the said petition. The enacting clauses carry out the preamble. It seems objectionable that a Provincial Legislature should profess to re-grant to a Canadian Company the powers with which the Canadian Parliament has invested it. Such a course is calculated to cast doubt upon the Parliament of Canada, and to create embarrassment in deciding to which Legislature in fact the Company owes its powers, while it is difficult to see any good purpose to be answered by such a procedure.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to these observations.

Chapter 66. "An Act to authorize the V. Hudon Cotton Mill Company, Hochelaga, to issue Debentures on the security of the property of the said Company, and for other purposes."

Section 2, Sub-section 4, provides that a by-law of the Company shall contain the time and place of payment of such debentures, and the coupons thereof, and the rate of interest, not exceeding 8 per cent., that they bear. The 9th Section provides that every debenture issued as aforesaid shall be recoverable, although negotiated at a rate more than 6 per cent. per annum. The undersigned submits that the attention of the Lieutenant-Governor should be directed to these sections, which seem objectionable, as trenching upon the law of interest.

Chapter 76. "An Act to incorporate the Musical Band of the Village of Lauzon."

This Act provides that the association shall have the right to ordain that any musician, whose conduct shall be irregular shall leave the band, and return within a delay of eight days into the hands of the bandmaster, the instrument which he has received from the society, under the penalty of a fine of not more than two or less than one dollar for each day during which he shall so refuse and neglect to return the said instrument after the expiring of the said delay, or of imprisonment for thirty days, or of both at once, in the discretion of the Judge, the said fine recoverable to the benefit of the said musical band in the ordinary manner. It seems extremely inconvenient to confer upon such a corporation as this the power of passing a by-law under which the subject may be imprisoned for a period of thirty days; such a power, if delegated at all, should, it would seem, be delegated only to Municipal bodies.

The undersigned submits that the attention of the Lieutenant-Governor should be called to this Act, with a view to its amendment before the time arrives within which it can be disallowed.

Upon Chapters 7 and 19 the undersigned proposes to report separately.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee of Council have had under consideration a Report, dated 22nd September, 1876, hereunto annexed, from the Hon. the Minister of Justice, having reference to the Statutes of the Legislature of Quebec, passed in the 39th Victoria, 1875, and they concur in the recommendations and suggestions contained in said Report, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Memorial of Insurance Agents, &c., to Secretary of State.

MONTREAL, 20th April, 1876.

SIR,—We beg leave respectfully to refer you to a Petition to His Excellency the Governor General, presented by the several Insurance Companies therein mentioned, doing business within the Province of Quebec, and complaining of the enactment by the Legislature of the Province of Quebec, of an Act, intituled: "An Act to compel Assurers to take out a License," and further to solicit His Excellency's attention to the prayer of the said Petition.

That at the time the said Petition was presented to His Excellency the Statutes of the last Session of the Legislature of the Province of Quebec had not been communicated to him or to his advisers. And we understood that it was therefore impossible to take the prayer of the said Petition into consideration at the time. But that, as since that period the Acts of the said Legislature, during the said last Session thereof, have been officially promulgated and circulated, under the authority of the Government of the Province of Quebec, we presume that the difficulty in the consideration of the question which then existed is now removed.

We have the honor respectfully to remark, that a further examination of the said Act and of its effects have fully convinced the signers of the said Petition that the representations contained in it were rather under than over stated, as to the injurious and arbitrary character of the said Legislation, and as an instance of the extent to which trade will be affected by the operation of that Act, your Petitioners beg leave to mention that five of the Companies whose names are appended to the said Petition will be taxed under its provisions to the extent of about $3,000 each per annum; an amount which, we venture to say, is unparallelled in the history of similar Legislation.

We therefore most respectfully beg that His Excellency will be most graciously pleased to take the said Act, and the prayer of the said Petition, into consideration, and will disallow the said Act, as unconstitutional.

We have, &c.,

GILLESPIE, MOFFATT & CO.,
Agents "Phœnix."

The Honorable
The Secretary of State, &c., &c., &c.

Mr. Davidson to the Secretary of State.

NORTH BRITISH AND MERCANTILE INSURANCE OFFICE,
MONTREAL, 21st April, 1876.

SIR,—On behalf of the several Insurance Companies transacting business in the Province of Quebec, I have the honor to transmit herewith a memorial relating to the Act of the Legislature of the Province of Quebec, 39 Vic., Cap. 7, signed by forty-three of these Companies.

It is the intention to despatch a deputation to Ottawa, who will have the honor of waiting upon the Government, at such time and place as they may appoint.

I have, &c.,

(Signed) THOS. DAVIDSON.

To the Honorable the Secretary of State,
Ottawa.

Memorial of Representatives of Insurance Companies.

To the Right Honorable Sir Frederick Temple, Earl of Dufferin, Viscount and Baron Clandeboye, of Clandeboye, &c., &c., Knight Commander of the Most Honorable Order of the Bath, Governor General of Canada and Vice-Admiral of the same :

The petition of the undersigned representatives of Insurance Companies transacting business in the Dominion of Canada, respectfully sheweth :—

That your Petitioners are the chief agents and accredited managers of the undermentioned Insurance Companies, having their principal office or place of business at the Cities of Montreal, Quebec, or Toronto, and carrying on their business throughout the Dominion of Canada;

That the said Insurance Companies have been heretofore established and incorporated under existing Acts of the Parliament of Canada, or the Legislature of Canada, or under the laws of the United Kingdom of Great Britain and Ireland, or of foreign countries, for the business of Life, Fire and Inland Marine Insurance, which they have carried on in Canada under the powers granted to them by their respective Charter incorporations, and under the authority and sanction of the laws of the Dominion;

That under the policy of the Dominion laws for Insurance Companies generally, and specially under the Dominion Acts 31 and 34 Vic., respecting Life Insurance, and of the 38th Vic., to amend and consolidate the several Acts as regards Fire and Inland Marine Insurance, the above-mentioned Insurance Companies have been, and still are, expressly licensed by the Dominion Government, under the authority of the said general Acts of the Parliament of Canada, to transact their several insurance business throughout the Dominion of Canada and of the Provinces thereof, without limitation or restriction, and are still acting under such general insurance business licenses, throughout the Dominion aforesaid;

That the exclusive legislative powers of the Parliament of Canada, under the British North America Act of 1867, expressly embrace the general subjects of trade and commerce in Canada to their fullest extent, necessarily including various special matters covered by those general terms—among others insurance, in general, which is confessedly an important business of trade, and a subject of a commercial nature, and, as such, exclusively treated by the policy and legislative authority of the Dominion, as represented by its Insurance Acts above named and referred to, which direct the issue by the Dominion authorities, of licenses for carrying on insurance business in every part of its Dominion, under the privilege and protection of its own license

therefor, wheresoever the head office or chief agency of the assurers may be placed, for the convenience of their general business ;

That the Dominion license, in this respect, is necessarily paramount and exclusive in its general privilege of insurance business in every part of the Dominion, over all merely Provincial Legislation, or assumption of legislative powers by the Provinces of the Dominion, obstructive of, or interfering with, the uncontrolled effect of the Dominion license, which is not susceptible of being brought into conflict by Provincial Legislation ;

That by a recent Act of the Legislature of the Province of Quebec, intituled : "An Act to compel Assurers to take out a License ;" its provisions are obligatory upon all persons or Companies, incorporated or unincorporated, or carrying on the business of assurance on life, or against fire, &c., and every other assurance business whatsoever, other than marine insurance exclusively, to take out from the Provincial Government an annual license on the 1st May for the transaction of their assurance business, and to pay a price for such Provincial license as regulated by the said Act, and in contravention whereof the insurance policies, &c., issued and given by the assurers, are made to have no effect either in law or equity, with the addition for each omission of the payment of the price regulated in the manner directed by the Act, of a penalty against the assurer not complying with such regulation, of fifty dollars in money, or its equivalent, imprisonment for three months, and for the enforcement and application of the Provincial Act ; subjecting the assurers to the provisions of the Quebec License Act of 1870, respecting local licenses, and the duties and obligations of the persons locally bound to hold such Provincial licenses ;

That the Provincial Legislature of Quebec has, in its said recent Act, intituled as aforesaid, exceeded the legislative authority conferred upon it by the British North America Act, 1867, from which alone it derives its legislative powers, and by which its Legislation is restricted exclusively to matters of a Provincial or local nature ; and among others in that Act expressly named, to the making of Provincial laws for shop, saloon, tavern, auctioneer and other licenses, to wit : "of a kindred local occupation or character, in order to the raising of a revenue for Provincial, Local or Municipal purposes," as evidenced by the said Quebec License Act of 1870, which is strictly within the legislative attributes of the said Province ;

That the said recent Act of the Legislature of Quebec, in its inclusion within the generality of its subjects, of the above mentioned Insurance Companies in carrying on their business under the paramount authority and protection of the Dominion license throughout the Dominion, has gratuitously assumed to conflict its Provincial legislation with the exclusive power and authority of the Parliament of Canada, and has, without right, interfered with the general power of the said Dominion licensed companies to transact their insurance business throughout the Dominion, freely and unrestrictedly in the Province of Quebec, without being subjected to the assumption of license power therefor, by that Provincial Legislature ;

Wherefore, you petitioners pray that, in consideration of the premises, the Act above intituled, recently passed by the Legislature of the Province of Quebec, to wit : "An Act to compel Assurers to take out a License," may be forthwith disallowed under the authority therefor of the British North America Act of 1867, and that it be declared unconstitutional.

And your petitioners will ever pray.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th October, 1876.

With reference to Chapter 7 of the Acts of the Legislature of Quebec, 39th Victoria, (1875) intituled : "An Act to compel Assurers to take out a License," the

undersigned has the honor to report, that a petition has been presented to His Excellency from the Chief Agents and accredited Managers of a very large number of Insurance Companies, carrying on business throughout Canada, including the Province of Quebec, representing that their respective companies have been and are carrying on such business under the powers granted to them by law, and with the authority and sanction of the Statutes of Canada; pointing out that their companies have been and are expressly licensed by the Canadian Government to contract business throughout Canada; alleging that the exclusive legislative powers of the Parliament of Canada expressly embrace the general subjects of trade and commerce, which in the view of the petitioners include insurance in general as an important business of trade, and a subject of a commercial nature; alleging that the license of Canada is necessarily paramount over and exclusive of all merely Provincial legislation obstructive of or interfering with its effect; referring to the provisions of the Act now under consideration, and alleging that by its enactment the Provincial Government has exceeded its legislative authority and, without right, interfered with the general power of the licensed Insurance Companies to transact their business without being subject to license by a Provincial Legislature, and praying for the disallowance of the Act.

That subsequently, a letter was addressed by the representatives of the Insurance Companies to the Secretary of State, referring him to this petition, and pointing out that a further examination of the Act, and its effects, have fully convinced the signers of the petition that the representations contained in it were rather under, than over stated, as to the injurious and arbitrary character of the legislation, and adding, as an instance of the extent to which trade will be affected by the operation of the Act, that five of the companies whose names are appended to the petition, will be taxed under its provisions to the extent of about three thousand dollars (3,000) each per annum, an amount which, in the view of the signers, is unparalleled in the history of similar legislation.

That subsequently to the receipt of this letter, a delegation on behalf of the petitioners visited the seat of Government with the view of pressing upon the Government the propriety of disallowing the Act. That the Government was then informed that steps would probably be taken for the purpose of testing in the Courts the validity of the measure.

That from the ordinary sources of public information, it appears that it was arranged between the Companies that one or more of them should take the necessary steps for such a test, and that proceedings have actually been taken and are now pending before the Courts with that view.

The Act requires every assurer, carrying on in the Province any business of assurance, other than that of marine assurance exclusively, to take out a license annually, and to remain continually under license.

The price of the license is to consist in the payment to the Crown for the use of the Province at the time of the issue or delivery of any policy of assurance except of marine assurance, and at the time of the making or delivery of each premium, receipt or renewal, respecting any policy issued before or after the coming into force of the Act, of a sum computed at the rate of three per cent. as to assurances against fire, and of one per cent. as to the other assurances of the amount received as premium or renewal of assurance.

The payment is to be made by stamps to be affixed to each policy or receipt.

Persons contravening the Act are made liable to a pecuniary penalty, and in default of payment to imprisonment.

Unstamped policies, &c., are to have no effect in the Courts of the Province.

It is provided that the Act shall not affect any policy, premium receipt or renewal, in relation to assurances wherein the interests assured, are beyond the limits of the Province.

It will be observed that much light may be thrown upon the question of the constitutionality of the Act by the decision shortly expected in the pending case as to Brewers' licenses, and in view of this and of the other legal proceedings to which

allusion has been made, the undersigned recommends that any determination upon this question shall be deferred for the present.

With reference to the alleged interference by the law with Canadian legislation, and to the objections to the policy of the measure, it is to be observed that the requirement of a license is merely the form of levying the tax.

It is strictly for the purpose of revenue. The business is only affected by the amount of the tax, and the mode in which it is levied ; and is not otherwise regulated; and the tax is a general one upon all persons and Corporations carrying on the business. Nor has the Parliament of Canada adopted the policy of raising a revenue from this subject.

The requisites for procuring its license are of an entirely different character. Its object is to secure some measure of protection to the public from loss by bubble or unsafe companies.

Had the Parliament of Canada adopted this as a subject of taxation, other considerations altogether might apply, and it would become necessary to determine whether the double taxation which would under such circumstances be imposed, should be allowed. The policy of levying a tax of this nature is open to great question. It must fall, in the end, upon those interested in the assurances. It may be considered to be a tax upon providence and thrift, and its operation may have an injurious effect far beyond what may be recompensed by its pecuniary results, but these are views which, although they should be fairly weighed, and although they might in some cases force upon the Canadian Government the necessity of disallowance, are yet subject to this observation, that the people of a Province who require to raise a revenue for their local wants, and who tax themselves for the purpose, may rightly claim, and must fairly be permitted, a considerable latitude in the determination what their taxes shall be, and that considerable confidence may be placed in local public opinion as a remedy for the indicated evils where they may exist.

The undersigned, however, feels bound to point out that in one particular this Act appears specially objectionable.

It is well known that the bulk of assurances on life are effected on contracts extending on the part of the Company over the whole term of life or a long number of years conditioned on the payment by the insured of periodical premiums at fixed rates. This Act, however, requires payment by the Companies of the tax of one per cent. upon the premiums for the renewals of life assurance policies, although made before the passing of the Act.

This imposes upon the Company, which has already contracted at a specified premium calculated upon various elements, not, however, including the taxation of the gross premium—a deduction, not from its net profits, but from its gross premium. The Company is not in a position to recoup itself by calling upon the insured to pay the tax.

This seems objectionable in principle, and calculated to produce a feeling of insecurity abroad, with reference to Provincial Legislation ; and the undersigned recommends that the attention of the Lieutenant-Governor should be called to the provision with a view to its amendment during the ensuing Session, at any rate, in so far as it affects contracts made before the passing of the Act.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th October*, 1876.

The Committee of Council have had under their consideration the Report hereunto annexed, dated 16th October, 1876, from the Honorable the Minister of Justice, having reference to Chapter 7 of the Acts of the Legislature of Quebec, 39th Victoria,

(1875) intituled : "An Act to compel Assurers to take out a License," and they concur in the recommendations contained in said Report, and submit the same for approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice

DEPARTMENT OF JUSTICE, OTTAWA, 19th October, 1876.

With reference to the following Statutes of the Legislature of Quebec, passed in the 39th Victoria, 1875, the undersigned begs to report :—

Chapter 36. "An Act for the civil erection of several parishes cut off from the territory of the old Parish of Notre Dame of Montreal."

This Act recites that the civil erection under Chapter 18 of the Consolidated Statutes for Lower Canada, of the certain parishes named, comprised within the old limits of the parish of Notre Dame of Montreal, would be very costly, and that it would be very difficult to act in conformity with the said chapter, and that it is necessary to civilly acknowledge these parishes, and it enacts that certain parishes thereinafter described, erected for religious purposes, only by the ecclesiastical authority, with the limits and boundaries assigned to them by the canonical decrees, are declared to be and are recognized as Catholic parishes as fully and to the same effect as if they had been recognized, erected and ratified for all civil purposes under Chapter 18 of the Consolidated Statutes for Lower Canada.

It proceeds to describe the territorial limits of the parishes.

The 2nd Section is to the same effect as the same section of Chapter 29 of the Statutes of the preceding Session previously reported on by the undersigned.

The 3rd Section provides that each parish so recognized is so, subject to the provisions set forth in the decree of erection which respects the same.

The 4th Section provides that every parish which the ecclesiastical authority may erect for religious purposes, within the limits of the parishes of the ancient territory of Notre Dame of Montreal, already dismembered and civilly recognized, or which are so by the 1st Section of the Act, shall be a Catholic parish from and after the insertion in the Quebec *Official Gazette* of a notice of the issue of the canonical decree which erects it, and that as fully and with the same effects as if it had been recognized and ratified for all civil purposes under Chapter 18 of the Consolidated Statutes for Lower Canada, subject to the provisions of Section 2 of the Act, and the provisions in the decree of erection which respects the same.

The decree of erection contemplated appears to be that of the Roman Catholic Bishop of the Diocese, and but for the clause under consideration no such decree would be effective unless based on the petition of a majority of the inhabitants, being freeholders, and subsequently ratified by the Civil Commissioners, after opportunity given to object.

It is, perhaps, not easy to determine how far the Local Legislature can delegate its powers. The unbroken chain of precedent since Confederation establishes for the present purpose, conclusively, a right to delegate extensive powers to municipal bodies.

But it is to be remarked, that the power of legislation upon the subject of municipal institutions is especially given under the British North America Act to the Local Legislatures, and such institutions having been, from the earlist days, invested with large powers, obviously a delegation to them stands on special grounds.

It may then be questioned, how far there is an authority to delegate these powers to other than those which are in their nature municipal, or, at any rate, representative bodies; and there may also arise, in the case of the delegate in this instance, the

question upon the Imperial Statute 14 Geo. III, Chap. 83, incorporating the Statute of the first of Elizabeth, suggested but not settled by the Judicial Committee of the Privy Council in a recent case.

The erection of parishes has heretofore been accomplished either under the Consolidated Statute, by the action already referred to, under which the rights of the inhabitants are carefully guarded, or, in special cases, where it appeared to the Legislature that there were sufficient reasons for not requiring the procedure authorized by the Statute, decrees already made and of whose propriety the Legislature was in a position to judge, have been ratified by special legislation, presumably, after hearing and with the consent of the parties affected; but the clause in question ratifies in advance, without the safeguards provided by the Consolidated Statute, any decrees which may be made for the indicated purpose by the local ecclesiastical authority.

It seems to the undersigned, that it would avoid the questions to which he has referred, and would be more in accordance with the true principles of legislation, that these cases should be dealt with, as heretofore, when they arise, and he suggests that the attention of the Lieutenant-Governor should be called to his observations on this section.

Section 5 enacts that meetings for the election of Churchwardens, for the rendering of accounts, and for all matters which require the convening of a parochial meeting, in such parishes, shall be composed of the old and new Churchwardens, and of persons elected in conformity with the ordinance of the Bishop, to constitute the board or body of the *fabrique;* provided that, in any case the Churchwardens so elected, or the *fabrique* so constituted, shall not have power to oblige or bind the parishioners to the payment of debts contracted by the said Churchwardens, or the said *fabriques*, without the previous consent of the said parishioners, declared at a general meeting of the parish duly convened after eight days' notice.

This section alters the mode of dealing with the temporalities of the church in these parishes, creating a variation from the general system throughout Quebec.

To the difficulties which may arise from such legislation the undersigned has referred in his Report, upon Chap. 29 of the Acts of the preceding Session, to which he suggests the attention of the Lieutenant-Governor should be called, as applicable to this provision.

The inconvenience may be aggravated here by the fact that the special provision is applied, not merely to known and existing parishes, but to new parishes which may thereafter be created under a canonical decree, and that the mode of procedure, &c., is not known or ascertained, but is to be such as the ordinance made in each case may provide.

Chapter 35. "An Act to amend an Act of this Province, 38 Vic., Chap. 29."

This Act recites a certain provision of the Act which it amends, relating to meetings of Churchwardens, &c., and the desirability of applying such provisions to all other parishes detached from, or which may hereafter be detached from, the old parish of Notre Dame de Montreal, which are or may hereafter be formed, either in whole or in part, out of the territory of the said parish of Notre Dame de Montreal, so that the mode of holding the said meetings be uniform throughout such parishes; and it enacts that these provisions shall apply to all parishes which are or may hereafter be formed out of the territory of the old parish of Notre Dame de Montreal, and are recognized as being lawfully binding therein, provided that in any case the Churchwardens so elected, or the *fabriques* so constituted, shall not oblige or bind the parishioners to pay debts contracted by the said Churchwardens, or the said *fabrique*, without the previous consent of the parishioners, declared at a general parish meeting duly called by a notice of at least eight days.

With reference to these provisions the undersigned refers to the observations made in his Report upon the Act amended by that in question, and to those made in his Report herewith upon the Act, Chapter 36 of the Statutes of the same Session, and he recommends that the attention of the Lieutenant-Governor should be directed to the observations and suggestions made in these Reports, in so far as they are applicable to this Act.

(Signed) EDWARD BLAKE.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th December,* 1876.

The Committee have had under consideration the Report, dated 19th October, 1876, from the Hon. the Minister of Justice, having reference to certain Statutes (Caps. 35 and 36) therein mentioned, of the Legislature of Quebec, passed in the 39th Victoria, 1875, and they concur in the recommendations and observations contained in said Report, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th November, 1876.

With reference to Chapter 60 of the Acts passed by the Legislature of the Province of Quebec, 39 Victoria, 1875, the undersigned begs to observe that in his Report, dated 22nd September, 1876, in which this Act, among others, was reported upon, he inadvertently omitted to call attention to the use of the word "Canada" in the name of the Company incorporated, namely, "The Patriotic Insurance Company of Canada."

In a Report of the undersigned, dated 16th November, 1875, upon the several Acts of the Legislature of the Province of Ontario, the undersigned commented upon the use of the word "Canada" in the name of "The Canada Fire and Marine Insurance Company," incorporated by Chapter 67 of the Statutes of Ontario, 1874, pointing out that this was of itself indicative of more than Provincial powers, and it appears to him that the word should be applied only to Companies incorporated by the Dominion; and by a Report of the undersigned, dated 23rd December, 1875, with reference, among others, to an Act amending the Act, Chapter 67, above referred to, the undersigned mentioned that the Attorney-General of Ontario was prepared to promote further legislation, with a view to substitute some other word for the word "Canada" in the title of the Company incorporated, and by the Act, Chapter 91, of the Statutes of Ontario, 39 Victoria, 1876, the name of the Company was changed from "The Canadian Fire and Marine Insurance Company" to the "Hamilton Fire and Marine Insurance Company."

The undersigned recommends that the attention of the Lieutenant-Governor of the Province of Quebec be called to the use of the word "Canada" in the name of the Company incorporated by Chapter 60, above mentioned, in order that his Government may consider the propriety of proposing the necessary amendments, with a view to substituting some other word therefor, before the period arrives for determining as to whether or not the Act should be disallowed.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st November,* 1876.

The Committee of Council have had under consideration the Report hereunto annexed, dated 17th November, 1876, from the Hon. the Minister of Justice, with

reference to Chapter 60 of the Acts passed by the Legislature of the Province of Quebec, 39 Victoria (1875), intituled: "An Act to incorporate the Patriotic Insurance Company of Canada," and they concur in the views and recommendations therein submitted, and advise that the same be approved and acted on.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

The Administrator of the Government of Quebec to the Secretary of State of Canada.

GOVERNMENT HOUSE, QUEBEC, 27th November, 1876.

SIR,—The Government of the Province of Quebec is prepared to submit to the Legislature, a Bill to amend the Provincial Act, 39 Vic., Chap. 60, referred to in the Order of the Honorable the Privy Council, of the 21st November, instant.

Nevertheless, inasmuch as the Act in question relates to a Company who obtained their incorporation by means of a Private Bill, and who might suffer serious inconvenience through the change of name, I would respectfully represent to His Excellency, that it would be only right that the Provincial Government should advise this Company of the proposed amendment, in order that the Directors may suggest another name agreeable to them, or themselves petition the Honorable the Privy Council, for the retention of the title of their Company.

The desired amendment will be brought forward during this Session of the Quebec Legislature, unless an Order to the contrary issues from the Honorable the Privy Council.

I have, &c.,

(Signed) A. A. DORION,
Administrator.

To the Honorable
The Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th November, 1876.

Upon the Despatch of the Administrator of the Province of Quebec of the 27th November instant, referring to the Order in Council of the 21st November, 1876, passed upon the Report of the undersigned, with reference to the use of the word "Canada" in the name of the "Patriotic Insurance Company of Canada," incorporated by Chap. 60 of the Quebec Acts, 39 Vic., 1875, the undersigned observes that the Administrator states that the Government of Quebec is disposed to submit a Bill to amend this Act, but adds that, having regard to the fact that the question relates to a Company, whose incorporation has been obtained by means of a private Bill, and that great inconvenience might result from a change in the name, it would be proper that the Provincial Government should warn the Company of the proposed amendment, in order to permit the Directors to suggest another name which might suit them, or to petition the Privy Council to be allowed to retain their present title.

The Administrator adds that the desired amendment will be proposed during the present Session of the Legislature, unless there be an opposite Order of the Privy Council.

The course proposed by the Administrator with reference to the Provincial action appears to be reasonable, but the undersigned thinks it right to point out for his information that the Privy Council having, in the case of a Company incorporated in another Province, taken such steps as resulted in the alteration by Provincial Legislation, of a similar title, it would seem impossible for the Council to take a different course upon this occasion.

The natural anxiety entertained by the undersigned to render as little inconvenience as possible the operation of the decisions of Council on these subjects, leads him to refer, for the information of the Administrator, to the course taken in an analogous case.

The Legislature of Ontario, by 38 Vic., Chap. 67, 1874, incorporated the "Canada Fire and Marine Insurance Company." The powers given to the Company were considered too extensive, and the Act was, on that ground, objected to by Council.

The name was also objected to on the ground taken in the present case. In consequence of this objection, the Provincial Legislature, by 39th Vic., Chap, 91, 1875, provided, that on and after the 31st July, 1876, if the Company should continue to do business under the authority of the Local Legislature, its name should be changed to the "Hamilton Fire and Marine Insurance Company." Meantime, those interested in the Company applied in the usual way to the Parliament of Canada for relief, and by 39th Vic., Chap. 51, 1876 (that of Canada), the shareholders in that Company were incorporated as a new Company, with extended powers, and under the original name. It will be for the shareholders of the Patriotic Company to consider whether they will follow the course pursued by the Company just referred to.

The undersigned recommends that a copy of this Minute, if approved, be transmitted for the information of the Administrator of the Province of Quebec.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *December*, 1876.

The Committee have had under consideration the Report hereunto annexed, from the Hon. Minister of Justice in reference to a Despatch from the Administrator of the Province of Quebec, referring to the Order in Council of the 21st November, 1876, objecting to the use of the word "Canada" in the name of the "Patriotic Insurance Company of Canada," incorporated by Chap 60 of the Quebec Acts, 39 Vic., 1875, and they respectfully submit their concurrence in the said Report, and advise that a copy thereof, and of this Minute, be transmitted for the information of the Administrator of Quebec.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 40TH VICTORIA, 1876.

2ND SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th November, 1877.

With reference to the Acts passed by the Legislature of the Province of Quebec in the Session held in the Fortieth year of Her Majesty's reign, being the second Session of the third Parliament of that Province, I beg to report, that after a careful examination, I am of opinion that they are all unobjectionable.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November,* 1877.

The Committee have had under consideration a Report, dated 5th November, 1877, from the Hon. the Minister of Justice, stating, with reference to the Acts passed by the Legislature of the Province of Quebec in the Session held in the Fortieth year of Her Majesty's reign, being the second Session of the third Parliament of that Province, that after a careful examination he is of opinion that they are all unobjectionable, and they recommend that the said Acts be left to their operation.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 41st VICTORIA, 1878.

3rd Session—3rd Parliament.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 13th March, 1879.

I have the honor to report upon the following Acts, passed by the Legislature held in the 41st year (1878) of Her Majesty's reign, namely:—

Cap. 1.—"An Act respecting the Consolidated Railway Fund of this Province (40 Vic., Cap. 2).

Cap. 2.—"An Act to further amend the law respecting Subsidies in Money made to certain Railway Companies." These two Acts appear to be within the competence of the Local Legislature to pass.

Cap. 3.—"An Act to amend and consolidate the Quebec License Act and its Amendments."

This Act makes very extensive provisions respecting licenses, and may in some respects entrench upon the exclusive legislative authority of the Parliament of Canada, most of the provisions, however, are clearly within the powers of a Provincial Legislature, and it is by no means clear that all the provisions are not within those powers, no interference with Dominion interests will be likely to take place by the Act being left to its operation, and as those who are taxed or attempted to be taxed under any of its clauses which may be considered *ultra vires*, will have the privilege of disputing before the Courts, the constitutionality of the provisions, I recommend that the Act be left to its operation. I recommend, however, that the Quebec Government be informed, that in leaving the Act to its operation, no admission is made on the part of this Government, that all its provisions are in the powers of the Provincial Legislature.

Cap. 4.—"An Act respecting the sale of Lands for the working of Mines of Phosphate of Lime, amending the Act 32 Vic., Cap. 11."

Cap. 5.—"An Act to further amend the Act respecting Agricultural and Public Works (32 Vic., Cap. 15)."

Cap. 6.—"An Act to further amend the Laws respecting Public Instruction in this Province."

Cap. 7.—"An Act to amend the Act 40 Vic., Cap. 23, amending the Law respecting Public Instruction as respects the City of Sherbrooke."

Cap. 8.—"An Act respecting the Registers of Civil Status."

Cap. 9.—"An Act to declare valid certain sales of Movables belonging to Successions."

Cap. 10.—"An Act respecting the proof of Heirship."

Cap. 11.—"An Act respecting the notification for, and the attendance at the removal of Seals and Inventories"

Cap. 12.—"An Act to amend Article 873 of the Code of Civil Procedure."

Cap. 13—"An Act to amend Article 997 of the Code of Civil Procedure, relating to suits against certain Corporations."

Cap. 14.—"An Act to provide for the issue of the Writ of Inspection in certain cases, and to regulate the procedure in relation thereto."

Cap. 15.—"An Act to provide for the giving notice of Sheriff's sales to hypothecary creditors."

Cap. 16.—"An Act respecting the indemnity to Petit Jurors, in criminal cases."

Cap. 17.—"An Act to amend the Act respecting Commissioners' Courts for the summary trial of small cases."

Cap. 18.—"An Act to amend certain articles of the Municipal Code of the Province of Quebec."

Cap. 19.—"An Act to amend the Act of this Province, 32 Victoria, Cap. 51, respecting Railways."

Cap. 20.—"An Act to amend Chapter 69 of the Consolidated Statutes for Lower Canada, respecting Building Societies in the Province of Quebec."

Cap. 21.—"An Act to amend Chapter 70 of the Consolidated Statutes for Lower Canada, intituled: 'An Act respecting Joint Stock Companies for the construction of Roads and certain other works.'"

Cap. 22.—"An Act to amend the Act respecting the incorporation of Joint Stock Companies (31 Vict., Cap. 25)."

Cap. 23.—"An Act to amend the Act 40 Vict., Cap. 26, relating to the Profession of Medicine and Surgery in Province of Quebec."

Cap. 24.—"An Act to incorporate The Chapter of the Cathedral of St. Hyacinthe."

Cap. 25.—"An Act to annex to the Municipality of the Village of Ste. Rose, certain Lands situate in the Municipality of the Parish of Ste. Rose, in the County of Laval, for all Municipal and School purposes."

These twenty-two Acts should be left to their operation.

Cap. 26.—"An Act to define and regulate the limits of certain Municipalities and Parishes in the Counties of Nicolet, Arthabaska and Drummond, and to include in the County of Nicolet, the portions of these Municipalities and Parishes which are now included therein."

The objects of this Act sufficiently appear from the title, and, with the exception of Section 11, the Act requires no special mention. I think it proper to refer to that section, not for the purpose of recommending any change therein, as the section is harmless, but because I think it objectionable to attempt to deal in Provincial legislation, with the rights of voters at Federal elections. The section is as follows:

"If, at the time of any Federal or Local election, the said municipality or portions of municipalities shall vote for such election at the places where they would have had the right to vote if this Act had not been passed." From the way in which the section is worded, no inconvenience is likely to arise by reason of the reference to Federal elections, but it would, I think, be better that in future, no reference to Federal elections should be made in any Act which deals with Provincial electoral districts, or the rights of voters at Local or Provincial elections. Such legislation would have no effect upon Federal elections, except in so far as the Dominion Statutes might provide, yet it might cause misunderstanding and trouble. I recommend that the attention of the Quebec Government be called to these remarks.

Cap. 27.—"An Act to amend Cap. 51 of 37 Victoria, Province of Quebec, intituled: 'An Act to revise and consolidate the Charter of the City of Montreal, and the several Acts amending the same.'"

Cap. 28.—"An Act to incorporate the Municipality of the Parish of Côte St. Paul."

Cap. 29.—"An Act to incorporate the Municipality of the Village de St. Louis du Mile End."

Cap. 30.—"An Act to amend the Act of incorporation of the City of Three Rivers (38 Vic., Cap. 76)."

Cap. 31.—"An Act to amend Sub-section 31, of Section 1, of Cap. 75, of the Consolidated Statutes for Lower Canada."

Cap. 32.—"An Act to amend the Act of the late Province of Canada, 12 Vic., Cap. 137, incorporating the Corporation of La Communauté des Sœurs de Ste. Croix, in the Parish of St. Laurent, in the District of Montreal, for educational purposes."

Cap. 33.—"An Act to incorporate the Œuvre de St. Joseph de la Délivrance."

Cap. 34.—"An Act to incorporate the Society of Union St. Joseph de Notre Dame de Beauport."

Cap. 35.—"An Act to incorporate the Society called L'Union St. Joseph de Lachine."

Cap. 36.—"An Act to incorporate the Union Saint Jean Baptiste du Village de Buckingham, in the Parish of St. Grégorie de Nazianze."

Cap. 37.—"An Act to incorporate Le Cercle Catholique de Québec."

Cap. 38.—"An Act to incorporate Le Cercle St. Louis, of Three Rivers."

Cap. 39.—"An Act to authorize the Ministers of the Church calling themselves The Reformed Episcopal Church in Canada, in the Province of Quebec, to keep registers of Baptisms, Marriages and Burials."

Cap. 40.—"An Act to amend the Act incorporating the Trustees of the American Presbyterian Society of Montreal."

Cap. 41.—"An Act to amend the Act 32 Vic., Cap. 89, intituled: 'An Act to incorporate the Protestant Institution for Deaf Mutes and for the Blind.'"

Cap. 42.—"An Act to change the name of 'The Montreal Infants' School Association' to that of 'The Boys' Home of Montreal,' and for other purposes."

Cap. 43.—"An Act to incorporate the Quebec Young Men's Christian Association."

Cap. 44.—"An Act to amend the Act respecting the Methodist Church of Canada (38 Victoria, Cap. 60)."

Cap. 45.—"An Act to enable the Minister and Trustees of the St. Andrew's Church, Montreal, to borrow money, and hypothecate the property of said Church."

Cap. 46.—"An Act to amend the Act 20 Vic., Cap. 125, respecting the Quebec North Shore Turnpike Roads."

Cap. 47.—"An Act further to amend the Act incorporating the City Passenger Railway Company of Montreal, and to cancel the unpaid Stocks thereof."

Cap. 48.—"An Act to incorporate 'The St. Lawrence, Lower Laurentian and Saguenay Railway Company.'"

Cap. 49.—"An Act to incorporate the Montreal Railway Company."

Cap. 50.—"An Act to amend the Acts relating to the Mutual Assurance Association of the Fabriques of the Dioceses of Quebec and Three Rivers, and of the Dioceses of Montreal and St. Hyacinthe."

Cap. 51.—"An Act to legalize certain preliminaries in the incorporation of the Montreal Fire Insurance Company of the Counties of Shefford and Brome, and to change the name of the said Company."

Cap. 52.—"An Act to incorporate the Beet Sugar Company of the Province of Quebec."

Cap. 53.—"An Act to amend the Act 31st Vic., Cap 41, incorporating the Montreal Building Association, by changing the name and extending the powers thereof."

Cap. 54.—"An Act to incorporate the Orford Nickel and Copper Company."

Cap. 55.—"An Act to incorporate the Sherbrooke Nickel and Phosphate Mining Company."

Cap. 56.—"An Act to authorize the Adams Tobacco Company to borrow money."

Cap. 57.—"An Act to authorize the V. Hudon Cotton Mills Company, Hochelaga, to appoint Trustees to insure its property, for the protection of the holders of the Debentures of the said Company, and for other purposes."

Cap. 58.—"An Act to authorize the sale of Immovable Property, substituted by the late Jean Baptiste Quesnel."

Cap. 59.—"An Act to authorize the Executor of the Wills of the late William Petry the elder, and William Petry the younger, and the Curator of substitution created thereunder, to change certain Investments now made."

Cap. 60.—"An Act to authorize the Board of Notaries to admit Louis Thomas Laroche to the practice of the Notarial Profession."

Cap. 61.—"An Act to authorize the Bar of the Province of Quebec to admit Michael J. F. Quinn to the practice of the profession of Advocate."

These thirty-five Acts should be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd March,* 1879.

The Committee of Council have had before them a Report, dated 13th March, 1879, from the Hon. the Minister of Justice, upon Acts passed by the Legislature of the Province of Quebec, in the 3rd Session of the Legislature, held in the 41st year of Her Majesty's reign (1878), and they recommend that the Acts submitted by the Minister of Justice be left to their operation, and that the attention of the Quebec Government be called to the remarks of the Minister of Justice in said Report.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

The Secretary of State to Lieutenant-Governor of Quebec.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 28th March, 1879.

SIR,—Transmitting you herewith a copy of the Order of the Hon. the Privy Council, dated the 28th instant, in relation to the Acts passed by the Legislature of the Province of Quebec, in the 3rd Session, held in the 41st year of Her Majesty's reign (1878), I have the honor to call the attention of your Government to the remarks contained in the Report made on the 13th instant, by the Hon. the Minister of Justice, upon the said Acts, and of which a copy is also herewith enclosed.

I have, &c.,

J. C. AIKINS,
Secretary of State.

His Honor the Lieutenant-Governor, Quebec.

QUEBEC, 41-42 VICTORIA, 1878.

1ST SESSION—4TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th July, 1879.

I have the honor to report that, having examined the fifteen Acts passed by the Legislature of the Province of Quebec, in the year 41-42 Victoria (First Session of the Fourth Legislature) and Chaptered 1 to 15 inclusive, I see no reason why the power of disallowance should be exercised in respect of any of such Acts; I therefore recommend that they be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

G. BABY,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd July*, 1879.

On a Report dated 18th July, 1879, from the Honorable Mr. Baby, Acting Minister of Justice, stating that having examined the fifteen Acts passed by the Legislature of the Province of Quebec in the year 41-42 Vic. (First Session of the Fourth Legislature) and Chaptered 1 to 15 inclusive, he sees no reason why the power of disallowance should be exercised in respect of any such Acts, and he therefore recommends that they be left to their operation.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

QUEBEC, 42-43 VICTORIA, 1879.

2ND SESSION—4TH PARLIAMENT.

Lieutenant-Governor of Quebec to the Secretary of State.

GOVERNMENT HOUSE, QUEBEC, 29th November, 1879.

SIR,—I have the honor to send you, by this day's mail, the file of Bills sanctioned by me at the last Session of the Legislature of Quebec, requesting you to submit them for the consideration of His Excellency the Governor General.

I have, &c.,

THEODORE ROBITAILLE,
Lieutenant-Governor.

The Honorable
The Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th November, 1880.

I have the honor to report upon the Acts passed by the Legislature of the Province of Quebec, in the Second Session of the Fourth Parliament (1879) as follows :—

Cap. 1.—"An Act granting to Her Majesty the Moneys required for the expenses of the Government, for the financial year ending on the 30th June, 1880, and for other purposes connected with the Public Service."

Cap. 2.—"An Act to amend the Quebec Railway Act, 1869."

Cap. 3.—"An Act to amend the Quebec License Law of 1878 (41 Vic., Cap. 3)."

Cap. 4.—"An Act respecting the closing of Taverns on Sundays, and at certain hours on other days."

Cap. 5.—"An Act to amend the Act 31 Vic., Cap. 9, respecting the Treasury Department, and the Public Revenue expenditure and accounts."

Cap. 6.—"An Act to amend the Acts respecting the security to be given by Public Officers in this Province (32 Vic., Cap. 9, and 36 Vic., Cap. 15)."

Cap. 7.—"An Act to repeal the Act 41 Vic., Cap. 16, and to amend Section 16 of the Consolidated Statutes for Lower Canada, Cap. 109, respecting the indemnity to Petty Jurors in criminal cases."

Cap. 8.—"An Act to further amend the Act respecting the Department of Agriculture and Public Works (32 Vic., Cap. 15)."

Cap. 9.—"An Act to encourage Colonization Societies in the Cities of Quebec and Montreal, to assist workmen and their families."

Cap. 10.—"An Act to amend the Acts respecting the Sale of Lands for the working of Phosphate Mines."

Cap. 11.—"An Act to amend the Gold Mines Act."

Cap. 12.—"An Act respecting Coroners' Inquests."

Cap. 13.—"An Act respecting Lunatic Asylums in the Province of Quebec subsidized by the Government."

Cap. 14.—"An Act to amend the Laws respecting Public Instruction in this Province, as to the Schools placed under the control of the Board of Roman Catholic School Commissioners of the City of Montreal."

Cap. 15.—"An Act to amend the Quebec Election Act."

Cap. 16.—"An Act to amend certain Articles of the Civil Code."

Cap. 17.—"An Act to amend Article 2098 of the Civil Code."

Cap. 18.—"An Act respecting the contract of Pledge."

Cap. 19.—"An Act to amend Articles two and three of the Code of Civil Procedure, respecting non-judicial days."

Cap. 20.—"An Act to amend Article 49 of the Code of Civil Procedure."

Cap. 21.—"An Act to amend Article 1068 of the Code of Civil Procedure, with respect to the service and execution of certain Writs issued out of the Circuit Court in certain cases."

Cap. 22.—"An Act to amend the Municipal Code of the Province of Quebec."

Cap. 23.—"An Act to secure the publicity of seizures of Real Estate."

Cap. 24.—"An Act respecting the Sale of Immovables by Sheriffs in the Province of Quebec."

Cap. 25.—"An Act respecting the Sale of Immovables within the limits of the late Parish of Montreal."

Cap. 26.—"An Act respecting the Sale of Securities belonging to persons not in the exercise of their Civil Rights."

Cap. 27.—"An Act respecting the Cancellation of the Registration of Real Estate Rights."

Cap. 28.—"An Act to amend the Act of this Province, 33 Vic., Cap. 26, intituled: 'An Act to provide for the interdiction and cure of Habitual Drunkards.'"

Cap. 29.—"An Act respecting Trusts."

Cap. 30.—"An Act defining the Investments to be made by Administrators."

Cap. 31.—"An Act respecting the voluntary winding up of Joint Stock Companies."

Cap. 32.—"An Act establishing further provisions relative to Building Societies in the Province of Quebec, and providing for the liquidation of their affairs."

Cap. 33.—"An Act to ratify the proceedings on liquidation of certain Building Societies."

Cap. 34.—"An Act to permit certain Corporations to employ more profitably the Real Estate in their possession."

Cap. 35.—"An Act to amend the Act of this Province, 39 Vic., Cap. 33, intituled: 'An Act to amend and consolidate the various Acts respecting the Notarial Profession in this Province.'"

Cap. 36.—"An Act to render valid certain Notarial Deeds."

Cap. 37.—"An Act to further amend and consolidate the Acts relating to the Profession of Medicine and Surgery in the Province of Quebec."

Cap. 38.—"An Act to further amend Cap. 76 of the Consolidated Statutes of Canada, respecting the practice of Medicine, Surgery, and the study of Anatomy."

Cap. 39.—"An Act to establish Mutual Assurance Companies."

Cap. 40.—"An Act to amend the Act of the late Province of Canada, 24 Vic., Cap. 32, respecting Mutual Assurance Companies."

Cap. 41.—"An Act to Amend Chapter 18 of the Consolidated Statutes of Lower Canada, respecting the erection of Parishes."

Cap. 42.—"An Act to authorize Municipal Corporations to use the Sinking Fund which they are obliged to invest, for the redemption of bonds issued by them."

Cap. 43.—"An Act to change the name of the Municipality of the Village of Notre Dame de Grâces and to extend its powers."

Cap. 44.—"An Act to declare the whole Parish of Ste. Marie Madeleine to be situated in the County of St. Hyacinthe, and also to erect such Parish into a Municipality."

Cap. 45.—"An Act to annex that portion of the Parish of St. Eugène which lies in the County of Bagot, to the County of Drummond, for all purposes, and to erect the said Parish into a Municipality."

Cap. 46.—"An Act to amend the Act to adjust the boundary lines and settle the titles in certain ranges of the Township of Grenville."

Cap. 47.—"An Act to amend Cap. 75 of the Consolidated Statutes of Lower Canada, respecting the division line between the Counties of Charlevoix and Montmorency."

Cap. 48.—"An Act to amend Cap. 75 of the Consolidated Statutes of Lower Canada respecting the division line between the Counties of Compton and Beauce."

Cap. 49.—"An Act to amend Cap. 75 of the Consolidated Statutes of Lower Canada, respecting the division line between the Counties of Bellechasse and Dorchester."

Cap. 50.—"An Act to amend the Act of Incorporation of the St. Lawrence and Industry Village Railway Company."

Cap. 51.—"An Act to incorporate the 'Ottawa and Gatineau Valley Railroad Company."

Cap. 52.—"An Act to amend the Act intituled: 'An Act to incorporate the Parish of Laprairie Turnpike Road Company.'"

Cap. 53.—"An Act to amend the Charter of the City of Montreal."

Cap. 54.—"An Act to amend the Act passed during the present Session, intituled: 'An Act to amend the Charter of the City of Montreal.'"

Cap. 55.—"An Act to amend the Act incorporating the City of Three Rivers (38 Vic., Cap. 76)."

Cap. 56.—"An Act to amend the Act to incorporate the City of Hull, 38 Vic., Cap. 79, and the Act 39 Vic., Cap. 49, amending the said Act."

Cap. 57.—"An Act to amend the Act 36 Vic., Cap. 60, intituled: 'An Act to consolidate and amend the Act to incorporate the Town of Lévis and the divers Acts amending the same.'"

I recommend that the power of disallowance be not exercised with respect to the above Acts.

Cap. 58.—"An Act to consolidate and amend the Act incorporating the Town of St. Henri."

I recommend that the power of disallowance be not exercised with respect to this Act, but it seems proper to remark that some of the provisions of Section 15, especially Sub-sections 7 and 8 appear to entrench upon the regulation of trade and commerce, legislative authority over which is vested in the Dominion Parliament. Inasmuch, however, as it will be competent for any person objecting to a tax imposed under the authority of this Statute, to raise the question in some Court of Law, and as the general subject is now before the Supreme Court for decision in the case of Jones *vs.* Gilbert, it would not be proper to recommend the disallowance of the Act.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 59.—"An Act to amend the Acts 23 Vic., Cap. 75, and 36 Vic., Cap. 58, respecting the incorporation of the Town of Sorel."

I recommend that the power of disallowance be not exercised with respect to this Act.

Cap. 60.—"An Act to amend the Act incorporating the City of Sherbrooke, 39 Vic., Cap. 50."

I recommend that the power of disallowance be not exercised with respect to this Act, but that the attention of the Lieutenant-Governor be called to the provisions of Section 9, which seem to entrench upon the subject of interest, which by the B. N. A., 1867, is placed within the exclusive legislative control of the Parliament of Canada.

Cap. 61.—"An Act to incorporate the Town of Chicoutimi."

Cap. 62.—"An Act to amend the Act 37 Vic., Cap. 48, intituled: "An Act to incorporate the Town of Salaberry of Valleyfield."

Cap. 62.—"An Act to amend the Act to incorporate the Town of Nicolet."

Cap. 64.—"An Act to incorporate the Seminary of Chicoutimi."

Cap. 65.—"An Act to incorporate the 'Séminaire de St. Charles Borrommée de Sherbrooke."

Cap. 66.—"An Act to incorporate the 'Ecclesiastical Society of St. Joseph,' in the Diocese of Quebec."

Cap. 67.—"An Act to incorporate the Community of the 'Religieuses Carmélites d'Hochelaga.'"

Cap. 68.—"An Act to authorize the Ministers of the Church known as the 'Scandinavian Church,' to keep registers of baptisms, marriages and burials, in the Province of Quebec."

Cap. 69.—"An Act to extend the powers granted to the Provincial Synod of the Anglican Church, by the Act of the late Province of Canada, 29 and 30 Vic., Cap. 15, to the Diocesan Synod of Quebec, in so far as it relates to Church property in the said Diocese."

Cap. 70.—"An Act to enable the Trustees and Members of Zion Church, Montreal, to further hypothecate certain property of the said Church."

Cap. 71.—"An Act to incorporate 'The Montreal College of Pharmacy.'"

Cap. 72.—"An Act to incorporate the 'Montreal Diocesan Theological College.'"

Cap. 73.—"An Act to incorporate 'The Wesleyan Theological College of Montreal.'"

Cap. 74.—"An Act to incorporate the 'Bishop's College School Association.'"

Cap. 75.—"An Act to facilitate the management of the Knowlton Academy, to provide for its incorporation and for other purposes."

Cap. 76.—"An Act to provide for the transfer of the ownership of the Roman Catholic Cemetery, of the Parish of St. Hyacinthe le Confesseur from the hands of the Trustees of the said Parish, into those of the Roman Catholic Episcopal Corporation of St. Hyacinthe, and for the management, administration and maintenance of the said Cemetery."

Cap. 77.—"An Act to incorporate the 'Société de Secours Mutuels des Français à Montréal.'"

Cap. 78.—"An Act to incorporate 'The Montreal Society of Decorative Art.'"

Cap. 79.—"An Act to amend the Act incorporating 'The Windsor Hotel Company of Montreal.'"

Cap. 80.—"An Act to incorporate the Coaticook Cotton Company, and to ratify By-law No. 74 of the Village of Coaticook granting aid to said Company."

Cap. 81.—"An Act to amend the Act incorporating the 'New City Gas Company of Montreal,' and the various Acts amending the same, to change the name of the Company and extend the powers thereof."

Cap. 82.—"An Act to amend the Act incorporating the Beebe Plain Advent Camp Meeting Association (40 Vic., Cap. 54)."

Cap. 83.—"An Act to incorporate the Association known as 'Le Club de Québec.'"

Cap. 84.—"An Act to incorporate the Quebec Elevator Company."

Cap. 85.—"An Act to incorporate 'L'Union Commerciale de Québec."

Cap. 86.—"An Act to authorize the sale of certain real estate substituted by the donation of the late Alpheus Kimpton and Letetta Lenay in favor of the children and issue of the late Walter Kimpton."

Cap. 87.—"An Act to authorize the Provincial Board of Notaries to admit George Siméon Théberge to the practice of the notarial profession."

I recommend that the power of disallowance be not exercised with respect to the above Acts.

JAS. McDONALD,

Minister of Justice.

———

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 19th November*, 1880.

The Committee of Council have had before them a Report, dated 13th November, 1880, from the Hon. the Minister of Justice, upon the Acts passed by the Legislature of the Province of Quebec, in the second Session of the fourth Parliament (1879), Chapters 1 to 87 inclusive.

The Minister recommends that the power of disallowance be not exercised in respect of these Acts, and that the attention of the Lieutenant-Governor be called to the remarks contained in the said Report, respecting the Acts Chapters 58 and 60.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

(Signed) J. O. COTÉ,
Clerk Privy Council.

Mr. Under Secretary Langevin to Lieutenant-Governor of Quebec.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 25th November, 1880.

SIR,—I have the honor to enclose a copy of an Order of the Honorable the Privy Council, dated the 19th instant, together with the Report, &c., from the Honorable the Minister of Justice therein mentioned, in relation to the Acts passed by the Legislature of the Province of Quebec, in the Second Session of the Fourth Parliament, and numbered 1 to 87 inclusively.

I have, &c.,

EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor the Lieutenant-Governor, Quebec.

Lieutenant-Governor Robitaille to the Secretary of State.

GOVERNMENT HOUSE, QUEBEC, 27th November, 1880.

SIR,—I have the honor to acknowledge the receipt of your despatch (2,274, Series 6,377), dated the 25th instant, transmitting a copy of an Order of the Honorable the Privy Council, dated the 19th instant, and of the Report from the Honorable the Minister of Justice, in relation to the Acts passed by the Legislature of Quebec during the Second Session of the Fourth Parliament, and numbered 1 to 87 inclusively.

I have, &c.,

THEODORE ROBITAILLE,
Lieutenant-Governor.

The Hon.
The Secretary of State, Ottawa.

QUEBEC, 43-44 VICTORIA, 1880.

3RD SESSION—4TH PARLIAMENT.

Lieutenant-Governor Robitaille to the Secretary of State.

GOVERNMENT HOUSE, Quebec, 28th July, 1880.

SIR,—I have the honor to enclose a certified copy of a Bill of the Legislature of Quebec, which I sanctioned on the 24th July, instant, to incorporate Le Crédit Foncier Franco-Canadien.

You are requested to submit it for the consideration of His Excellency the Governor General.

I have, &c.,

THEODORE ROBITAILLE,
Lieutenant-Governor.

The Hon.
The Secretary of State, Ottawa.

The Secretary of State to Lieutenant-Governor of Quebec.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 30th July, 1880.

SIR,—I have the honor to acknowledge the receipt of your Despatch dated the 28th instant, with a certified copy of a Bill of the Legislature of Quebec to incorporate Le Crédit Foncier Franco-Canadien.

I have, &c.,

J. C. AIKINS,
Secretary of State.

His Honor the Lieutenant-Governor, Quebec.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd August, 1880.

SIR,—I am directed by the Hon. Mr. Baby (Acting Minister of Justice) to request the Hon. the Secretary of State to inform the Lieutenant-Governor of Quebec, with reference to the Act passed at the last Session of the Quebec L egislature, intituled: "An Act to incorporate the Credit Foncier Franco-Canadien," that the power of disallowance will not be exercised.

Z. A. LASH,
Deputy Minister of Justice.

The Secretary of State to Lieutenant-Governor of Quebec.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 3rd August, 1880.

SIR,—With reference to your Despatch of the 28th ultimo, transmitting a copy of an Act passed by the Legislature of the Province of Quebec at its last Session, intituled: "An Act to incorporate the Credit Foncier Franco-Canadien."

I have the honor to state, for the information of your Government, that the power of disallowance will not be exercised as regards the said Act.

J. C. AIKINS,
Secretary of State.

His Honor
The Lieut.-Governor of the Province of Quebec.

Lieutenant-Governor Robitaille to the Secretary of State.

GOVERNMENT HOUSE, QUEBEC, August, 1880.

SIR,—I have the honor to transmit to you by this day's mail, the file of Bills I sanctioned on the 24th July last, the day of the prorogation of the Parliament of the Province of Quebec.

I beg that you will submit them for the consideration of His Excellency the Governor General.

I have, &c.,

THEODORE ROBITAILLE,
Lieutenant-Governor.

The Hon. the Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th August, 1881.

To His Excellency the Governor General in Council:

The undersigned has the honor to report:—

With respect to the Acts passed by the Legislature of the Province of Quebec in the year 1880, being Chapters one to one hundred and five inclusive, the undersigned has the honor to recommend that the power of disallowance be not exercised with regard to any of such Acts.

Humbly submitted.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by the Deputy of His Excellency the Governor General in Council on the 3rd September,* 1881.

On a Report dated 25th August, 1881, from the Hon. the Minister of Justice, recommending, with respect to the Acts passed by the Legislature of the Province

of Quebec, in the year 1880, being Caps. 1 to 105 inclusive, that the power of disallowance be not exercised with regard to any of such Acts.

The Committee submit the above recommendation for approval.

J. O. COTÉ,
Clerk Privy Council.

The Secretary of State to Lieutenant-Governor of Quebec.

OTTAWA, 8th September, 1881.

SIR,—I have the honor to enclose a copy of an Order of the Honorable the Privy Council, dated the 3rd instant, in relation to the Acts passed by the Legislature of Quebec in the year 1880.

I have, &c.,
HECTOR L. LANGEVIN,
For the Secretary of State.

His Honor the Lieutenant-Governor, Quebec,

QUEBEC, 44-45 VICTORIA, 1881.

4TH SESSION—4TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th July, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report, in respect to the Acts passed by the Legislature of the Province of Quebec in the year 1881, as follows:—

Chap. 1. An Act granting to Her Majesty the Money required for the expenses of the Government for the financial years ending on the 30th June, 1881, and on the 30th June, 1882, and for other purposes connected with the Public Service.

Chap. 2. An Act respecting the Quebec, Montreal, Ottawa and Occidental Railway, and to ratify certain arrangements made in connection therewith.

Chap. 3. An Act to amend the Act respecting Subsidies in Money to certain Railways.

Chap. 4. An Act to amend the Quebec License Law.

Chap. 5. An Act respecting the publication of certain Orders in Council, Proclamations and Departmental Regulations.

Chap. 6. An Act to amend the Act 43-44 Vic., Chap. 3, intituled : "An Act respecting the Division of the Department of Agriculture and Public Works."

Chap 7. An Act to extend the duration of the Legislative Assembly of the Province of Quebec.

Chap. 8. An Act to amend the Act of this Province, 42-43 Vic., Chap. 15, intituled : "An Act to amend the Quebec Election Act."

Chap. 9. An Act to amend Sections 54 and 75 of the Act 43-44 Vic., Chap. 12.

Chap. 10. An Act to further amend the Law respecting Jurors and Juries (32 Vic., Chap. 22).

Chap. 11. An Act to amend the Joint Stock Companies Incorporation Act (31 Vic., Chap. 25).

Chap. 12. An Act to amend the Joint Stock Companies General Clauses Act (31 Vic., Chap. 24).

Chap. 13. An Act to amend the Act of this Province, 43-44 Vic., Chap. 19, intituled : "An Act respecting Public Officers of the Province of Quebec."

Chap. 14. An Act to amend the Act of this Province, 40 Vic., Chap. 10, intituled : "An Act to establish a Superannuation and Aid Fund in favor of certain Public Employés and their Families."

Chap. 15. An Act respecting Masters and Servants.

Chap. 16. An Act to Order the Registration of Customary Dowers and Servitudes in certain cases not provided for by Law.

Chap. 17. An Act to secure the payment of Builders and Workmen.

Chap. 18. An Act to exempt from seizure one-half of the wages of laborers.

Chap. 19. An Act to amend the Law respecting Public Instruction."

Chap. 20. An Act to further amend the "Town Corporations General Clauses Act," 40 Vic., Chap. 29.

Chap. 21. An Act to amend the Law concerning Official Plans and Books of Reference.

Chap. 22. An Act to amend certain Articles of the Municipal Code.

Chap. 23. An Act to change the *chef lieu* of the Judicial District of Kamouraska.

Chap. 24. An Act to further amend Chap. 68 of the Consolidated Statutes for Lower Canada, intituled : "An Act respecting Mutual Insurance Companies."

Chap. 25. An Act to amend the Act 42-43 Vic., Chap. 39, intituled : "An Act to establish Mutual Assurance Companies."

Chap. 26. An Act to permit Municipal Corporations to capitalize their Debts.

Chap. 27. An Act respecting the Bar of the Province of Quebec.

Chap. 28. An Act to render valid certain Notarial Deeds.

Chap. 29. An Act to legalize certain official acts of Charles J. Powell, Deputy Sheriff of the District of Arthabaska.

Chap. 30. An Act to amend Chap. 75 of the Consolidated Statutes for Lower Canada.

Chap. 31. An Act to amend Chap. 18 of the Consolidated Statutes for Lower Canada, and the Act 42-43 Vic., Chap. 41, with respect to the erection of certain Parishes within the limits of the former Parish of Notre Dame de Montreal.

Chap. 32. An Act to annex to the Municipality of the united Townships of Stoneham and Tewkesbury a certain portion of the Parish of St. Edmond de Stoneham.

Chap. 33. An Act to erect the Parish of St. Louis, situate partly in the County of Richelieu and partly in the County of St. Hyacinthe, into a Municipality, and to annex it to the County of Richelieu.

Chap. 34. An Act to encourage the establishment of Manufactories of Railway Plant.

Chap. 35. An Act to incorporate the Montreal and Sorel Railway Company.

Chap. 36. An Act to amend the Act incorporating the Montreal Island Railway Company.

Chap. 37. An Act to incorporate the Mountain Park Railway and Elevator Company.

Chap. 38. An Act to amend the Act of incorporation of the St. John and Sorel Railway Company.

Chap. 39. An Act to amend an Act of this Session, intituled: "An Act to amend the Act of incorporation of the St. John and Sorel Railway Company."

Chap. 40. An Act to amend the Charter of the Quebec Central Railway Company.

Chap. 41. An Act to amend the Act incorporating the Waterloo and Magog Railway Company.

Chap. 42. An Act to amend the Acts relating to the incorporation of the Missisquoi and Black Rivers Valley Railway Company.

Chap. 43. An Act to amend the Acts relating to the South-Eastern Railway Company.

Chap. 44. An Act to incorporate the Quebec, Montmorency and Charlevoix Railway Company.

Chap. 45. An Act respecting the Turnpike Roads between Longueuil and Chambly.

Chap. 46. An Act respecting Laval University, and for the purpose of increasing the number of its Chairs of Arts and other Faculties within the limits of the Province of Quebec.

Chap. 47. An Act to incorporate the Congregation of Trinity Church, Quebec.

Chap. 48. An Act to incorporate the Notre Dame Hospital at Montreal.

Chap. 49. An Act to amend an Act of this Session intituled: "An Act to incorporate the Notre Dame Hospital at Montreal."

Chap. 50. An Act to incorporate the Protestant Hospital for the Insane.

Chap. 51. An Act to amend the Act incorporating l'Union Saint Joseph à Saint Sauveur de Québec.

Chap. 52. An Act to incorporate l'Union Saint Joseph à St. Roch de Québec.

Chap. 53. An Act to incorporate the Sisters of St. Joseph of St. Hyacinthe.

Chap. 54. An Act to incorporate the Dominique College.

Chap. 55. An Act to incorporate the Montreal Amateur Athletic Association.

Chap. 56. An Act to incorporate the Club des Marchands de Québec.

Chap. 57. An Act to incorporate the Club St. Denis of Montreal.

Chap. 58. An Act to incorporate Reform Club of Montreal.

Chap. 59. An Act to incorporate l'Institut Canadien-Français de Lévis.

Chap. 60. An Act to incorporate l'Union Sucrière Franco-Canadienne.

Chap. 61. An Act to incorporate the Eastern Townships Colonization and Credit Company.

Chap. 62. An Act respecting the Mutual Fire Insurance Company of the City of Montreal, and for other purposes.

Chap. 63. An Act to incorporate the Silver Plume Mining Company.

Chap. 64. An Act to incorporate the Manufacturing and Agricultural Company of Rivière du Loup.

Chap. 65. An Act to amend the Act passed in the forty-first year of Her Majesty's reign, Chap. fifty-four, intituled: "An Act to incorporate the Orford Nickel and Copper Company."

Chap. 66. An Act to incorporate the Montreal Fibre Company.

Chap. 67. An Act to incorporate the Montreal Distilling Company.

Chap. 68. An Act to incorporate the Montreal Board of Real Estate Agents.

Chap. 69. An Act to incorporate the Canadian Electric Light Company.

Chap. 70. An Act to incorporate the Montreal Electric Light Company.

Chap. 71. An Act to incorporate the Quebec and Levis Electric Light Company.

Chap. 72. An Act to incorporate the Quebec and Levis Telephone Company.

Chap. 73. An Act to amend the Charter of the City of Montreal.

Chap. 74. An Act to amend the Charter of the Town of St. John's (43-44 Vic., Chap. 62.)

Chap. 75. An Act to amend and consolidate the Act of incorporation of the Town of Longueuil, 37 Vic., Chap. 49, and the Act amending the same, 39 Vic., Chap. 46.

Chap. 76. An Act to confer certain powers on the Bell Telephone Company of Canada.

Chap. 77. An Act to enable the Montreal Warehousing Company to issue Preferential Stock.

Chap. 78. An Act to correct a clerical error in the Official Plan and Book of Reference of the Parish of Ste. Rose.

Chap. 79. An Act to authorize the Cadastre of Lot No. 18, of St. Lawrence Ward, in the City of Montreal, to be prepared.

Chap. 80. An Act to declare binding certain steps taken by the School Commissioner of the Parish of St. Lin for the establishment of a Girls' Model School or Academy.

Chap. 81. An Act to confirm the rights of ownership of Jean Olivier Chevrefils in the Lots Numbers 104, 105 and 110 of the Cadastre of the Parish of Ste. Anne du Bout de l'Ile, in the County of Jacques Cartier.

Chap. 82. An Act to facilitate the payment of the Debt contracted and of the Expenses to be incurred in building the Catholic Church of the Parish of St. Jean Baptiste de Montreal, and to amend the Act 43-44 Vic., Chap. 37.

Chap. 83. An Act to authorize the Fabrique of the Parish of Notre Dame de Montreal to issue Debentures to a definite amount.

Chap. 84. An Act to authorize the Trustees of the Parish of St. Gabriel de Stratford to make a new Act of Assessment.

Chap. 85. An Act to order the reopening of a By-road in the Parish of St. George de Courville, in the County of Iberville.

Chap. 86. An Act to authorize the sale of certain Properties substituted under the Will of the late George Burns Symes.

Chap. 87. An Act to authorize the exchange and sale of certain Real Estates and Immovables, subject to substitution by Donation Deeds from Duke Roberts to Edward L. Roberts, Silas Stewart Roberts, and their children.

Chap. 88. An Act to confirm the Letters Patent issued in favor of the Montreal Abattoir Company, and remove all doubts with respect to the powers of the said Company.

Chap. 89. An Act to authorize François Gosselin, of the Parish of Ste. Claire, to exact certain Tolls on a Bridge which he has built across the Chaudière River, between the Parishes of Ste. Marie, County of Beauce, and St. Bernard, County of Doncaster, and for other purposes.

Chap. 90. An Act to authorize David Roy, of the Parish of St. George, in the County of Beauce, to construct a Toll Bridge over the River Chaudière.

Chap. 91. An Act to amend the Act 16 Vic., Chap. 65, intituled: "An Act to authorize François Daigle and Alexis Dufresne to demand Tolls upon a Bridge which they have constructed on the Northern Branch of the River Yamaska."

Chap. 92. An Act to authorize the Bar of the Province of Quebec to admit Joseph Eugène Lepine among its members.

Chap. 93. An Act to authorize the Bar of the Province of Quebec to admit Marie Joseph Edmond Chagnon to the profession of Attorney and Advocate.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd July*, 1882.

On a Report dated 11th July, 1882, from the Minister of Justice, recommending, with respect to the Acts passed by the Legislature of the Province of Quebec in the year 1881, being Chapters 1 to 93, inclusive, that the power of disallowance be not

exercised with regard to any of the said Acts, but as regards Chapters 46, 69 and 72, the Minister has deemed it expedient to make a separate Report.

The Committee submit the above recommendation for Your Excellency's approval.

JOHN J. McGEE.

Clerk Privy Council.

Petition of Montreal School of Medicine and Surgery to Governor-General.

To His Excellency the Right Honorable the Marquis of Lorne, K.T., G.C.M.G., P.C., Governor General of the Dominion of Canada, in Council assembled:

The humble petition of the Montreal School of Medicine and Surgery, a body politic, duly incorporated by the Legislature of the late Province of Canada, having its seat in the City of Montreal—

Respectfully Sheweth:

(1.) Your petitioners have been duly incorporated in 1845, by the Legislature of the late Province of Canada (8 Vic., Chap. 81), for the purpose of giving public lectures and instruction in the various branches of the sciences of medicine and surgery; and they have, ever since 1845, kept such a public medical school in Montreal. Said medical school has under its medical control the large hospital of l'Hotel Dieu, the lying-in-hospital of the Sisters of Mercy, and various other public establishments and dispensaries. It has instructed over 700 physicians, who have been duly licensed, and who practise or have practised medicine in the different Provinces of Canada, and in the United States.

Your petitioners possess a large building, with a library and anatomical museum, and their lectures are followed every year by 120 to 150 students.

The said school has been affiliated, since 1869, to the Victoria University of Cobourg. Their pupils receive their degrees.

Their diplomas have always entitled the bearer thereof to a license from the General Board of Physicians of the Province of Quebec to practise medicine in the said Province.

(2) The Laval University has been created by a Royal charter of Her Majesty Queen Victoria, dated 8th December, 16 Victoria (1852), which authorized Le Séminaire de Québec, to wit: A classical seminary, established and existing in the City of Quebec, for the education and instruction of youth, to confer degrees and grant to said corporations all the other privileges usually granted to and enjoyed by Universities, in addition to the powers and privileges hitherto possessed and enjoyed by said seminary. It also enacts that in each and every act or deed done and performed under and by virtue of said Charter, the said *Séminaire de Québec* shall be named, called and known as the *Université Laval* (Laval University).

The said Royal Charter further ordains, declares and grants that the Rector (to wit, the Superior of said seminary) and the Professors of said University, and all persons who shall be duly matriculated into and admitted as members of said University, and their successors forever, shall be one distinct and separate body politic, in deed and in name, by the name and style of "The Rector and Members of *l'Université Laval* (Laval University), at Quebec, in the Province of Canada;" and further, that the Council of said University shall consist and be composed of the Rector, of the Directors of said *Séminaire de Québec*, and of the three senior Professors of the several faculties, Divinity, Law, Medicine and Arts, in said University; that said Université Laval shall have, possess and enjoy all such and the like privileges as were then enjoyed by the Universities of the United Kingdom of Great Britain and Ireland, so far as the same are capable of being had, possessed or enjoyed under and by virtue of said Royal charter; and further, that the University Council, as constituted by said Royal Charter, shall, for the purposes of said Royal Charter, have, possess and enjoy the right and power to affiliate to and connect with said University

any one or more College or Colleges, Seminary or Seminaries, public institution or institutions of education, within the said Province of Canada, as to the said Council may seem fit.

(3.) The said *Séminaire de Québec* has existed over two hundred years in the City of Quebec as a classical College and a Seminary for Roman Catholic students in theology; and since its erection into a University, under the name of *Université Laval*, as aforesaid up to the present time, it has also confined its sphere of action as a teaching institution, and as a University to the City of Quebec, where said Seminary and said University are located by their Charters, and where all their buildings are erected and situated.

(4.) In the year 1878 the said Université Laval opened in the city of Montreal a branch of their faculties of Medicine and of Law, under the name of *Université Laval à Montreal*, not distinct faculties from those existing and teaching in the City of Quebec and affiliated to Laval University, but divisions of the same faculties which exist in the City of Quebec, the Professors of which are appointed by the University Council, and may themselves become members of said University Council by order of seniority, as those of the same faculties teaching in Quebec.

(5.) The said branch of the faculties of Law and Medicine being so established in the City of Montreal, the Rector of said Université Laval and the Secretaries of said branch faculties did, every year since 1879, up to the present time, advertise the opening of courses of lectures in Law and Medicine to be given in the City of Montreal by Laval University, and said Laval University did, in fact, every year since 1879, give lectures in and teach law and medicine in the City of Montreal to a large number of students, and did deliver certificates and diplomas and confer University titles and Degrees to the students following the lectures so given by it in the said City of Montreal, although it had no power to do so by law, or its Charter, thereby assuming and exercising powers, franchises and privileges in excess, and in direct violation of law and of its Charter.

(6.) The avowed purpose of this illegal teaching in the City of Montreal by the said Université Laval was to destroy and supplant your Petitioners as a teaching school in Montreal, and to prevent your Petitioners and the French population of the Montreal district from obtaining a Charter for an independent University in Montreal, where your petitioners are the only French medical school, and where there is no French teaching of the law, although three-fourths, nearly, of the French law students, are residing in the City of Montreal.

(7.) Your petitioners suffering from the intrigues of Laval University to supplant them in Montreal, of the unfair competition which they met from it as a teaching school, and of the disloyal opposition of Laval University to the efforts of your petitioners, and of the almost unanimity of the French population of the Montreal section of the Province, to obtain a French University in Montreal, did, on the 29th September, 1879, apply to Her Majesty's Secretary of State for the Colonies, for an authoritative interpretation of the said Charter in reference to the legality of said branch faculties.

(8.) On the 3rd day of October, 1879, the Under Secretary of State for the Colonies replied, by direction of the Secretary of State, that such a question was a matter of law, upon which the Secretary of State would decline to express an authoritative opinion under any circumstances.

(9.) Your petitioners, who already had had the opinion of eminent Advocates of this Province, adverse to such legality, then obtained the legal opinion of Sir Farrar Herschell, Solicitor-General, dated 20th July, 1880, in which he holds that the Laval University at Quebec is not entitled under its Charter to establish itself elsewhere than in Quebec, or to establish faculties of Theology, Law, Medicine and Arts to exist at the same time at Quebec and Montreal; he thinks that the Charter by which it is incorporated, establishes it at Quebec, and it acts in excess of the powers and privileges conferred upon it by the said Charter when it establishes itself elsewhere, and that the Laval University, when exceeding the powers conferred upon it by its Charter, would fall within the scope of Article 997 of the Code of Civil Procedure of

Lower Canada. Various considerations point to these conclusions, which are given at length in said opinion.

(10.) Thereupon your petitioners did, on the 4th October, 1880, protest, by their notary, the Laval University to cease teaching Law and Medicine in Montreal, and to abolish their said branch faculties in the last named city, as otherwise proceedings at law would be instituted against it on that account.

(11.) Alarmed at these threats of legal proceedings against it, and at the said opinion of so high an authority on the interpretation of a Royal Charter, the Laval University did, on the 4th November, 1880, petition Her Majesty, through His Lordship the Roman Catholic Archbishop of Quebec, by law the Visitor of said University, and the Bishops of the said Province, to be pleased to add to the powers already defined in the Royal Charter of 1852, such clause as Her Majesty might think fit, to dispel all doubts raised, as to the legality of said branch faculties in Montreal.

(12.) In a letter from the Under Secretary of State for the Colonies, written by order of the Earl of Kimberley, dated 20th January, 1881, and addressed to Messrs. Bircham & Co., petitioners' agents in London, after stating that His Lordship had received from the Governor General of Canada said petition to the Queen by the Roman Catholic Archbishop and Bishops of the Province of Quebec, with regard to the powers of the University, and also a draft of a proposed new Charter for that institution; and, further, a letter from the Officers of the School of Medicine and Surgery at Montreal, to the effect that they had, by their Notary, summoned the Laval University to cease giving university instructions at Montreal, and to abolish the branch house and the professorships which it has therein established, and have warned the University that in default of its not conforming itself to the summonses within thirty days from the 4th October last, they would appeal to competent tribunals to obtain justice; the Under Secretary adds that the Secretary of State has informed the Governor General of Canada, that it does not appear to him necessary to decide the question at present, as he does not think it right to invite Her Majesty to interpose, while the question as to the powers of Laval University is about to be decided in a Court of Law.

The meaning of these last words is made clearer by a communication from T. Bircham, Esq., petitioners' agent in London, to Dr. D. d'Orsonnens, President of the said Montreal School of Medicine and Surgery, dated 2nd May, 1881, in which he communicated to the said President an information which he had just received from the Colonial Office, to the effect that the Secretary of State, before tendering any advice to Her Majesty on the subject, proposes to await the result of the legal proceedings which, he was informed, have been instituted in the Provincial Courts of Quebec, on the question in dispute between the School of Medicine and the Laval University. Under such circumstances, Lord Kimberley considered that, at that stage, no advantage would be gained by complying with Mr. Bircham's request for a copy of the new Charter.

(13.) After a second notarial protest made on the 23rd March last past (1881), your petitioners did, in the beginning of April last past (1881), petition the Honorable the Attorney-General of the Province of Quebec, for leave to use his name in proceedings, in the nature of a prohibition, to be instituted against the said L'Université Laval, on account of the said illegal teaching in the said City of Montreal, as provided by Article 997 of the Code of Civil Procedure of Lower Canada, and its amendments.

After hearing your petitioners, and L'Université Laval, by their Counsel, the Attorney-General granted the prayer of said petition, on certain conditions of security for costs, which have been complied with.

(14.) On the 14th day of April last past, a petition was presented to a Judge of the Superior Court, sitting in Chambers in Montreal, unders Articles 997 and 998 of said Code of Procedure, in the name of the Honorable L. Onésime Loranger, Attorney-General for the Province of Quebec, *pro* Regina, praying for the issuing of a writ of summons to order L'Université Laval to appear and answer said petition, and show under what authority it has established said branch faculties of Law and Medicine in

the City of Montreal, given lectures therein and conferred Certificates, Diplomas and University Degrees and titles to the students of said branch faculties, and on default of cause being shown to the satisfaction of the Court or Judge thereof, that it be declared by said Court or Judge, that by reason of the facts above set forth, L'Université Laval (Laval University) at Quebec, in the Province of Canada, have illegally and unlawfully assumed and exercised powers, privileges and franchises unauthorized by law and by their said Charter, that an order do issue to the defendants to abolish said branch faculties and to discontinue said teaching in Montreal, and to cease issuing Diplomas, Certificates, and conferring University Degrees and titles to the students in the said branch faculties.

(15.) The said petition and writ were duly returned into Court on the day fixed for that purpose; the defendants have appeared and filed a preliminary plea by way of declinatory exception, by which it is alleged that the defendants, being located and having their principal establishment and seat in the City of Quebec, they could not be impleaded in the District of Montreal, but in the District of Quebec only.

This preliminary plea has not been disposed of as yet, on account of the steps which were immediately taken by the authorities of the Laval University to obtain from the Quebec Legislature the Bill hereafter mentioned, by which it was expected to enlarge the powers conferred on it, by its Royal Charter and to legalize said branch faculties so questioned in Courts of Law.

(16.) Notices were then immediately given on behalf of said University, in the Quebec *Official Gazette* and in two newspapers, one French and one English, published in the City of Quebec, but nowhere else, that there would be presented to the Legislature of the Province of Quebec, at its next Session, a Bill concerning the Laval University and the multiplication of its Chairs of instruction in the Arts and other Faculties.

(17.) It was on such notices that the Bill, No. 15, intituled: "An Act respecting Laval University, and for the purpose of increasing the number of its Chairs of Arts and other Faculties within the limits of the Province of Quebec," was presented, which, in its original form, reads as follows:—

"Whereas certain persons have raised doubts with reference to the right of Laval University to give a University course elsewhere than in Quebec; and whereas it is expedient to remove such doubts:

"Therefore Her Majesty, by and with the advice and consent of the Legislature of the Province of Quebec, enacts as follows:—

"(1.) Laval University is empowered to increase the number of its Chairs of Arts and other Faculties within the limits of the Province of Quebec.

"(2.) The present Act shall come into force on the day of its sanction."

(18.) Your petitioners, and an immense number of citizens, opposed said Bill before both Houses of the Legislature, and over 340 petitions of clergymen and laymen of all classes, mostly from that section of the Province of Quebec, included south of the Diocese of Quebec, were presented to both Houses of Parliament and to His Honor the Lieutenant-Governor of the said Province, while only four petitions were presented in its favor, which were chiefly from persons connected with said University.

(19.) But said Bill was adopted by both Houses of Parliament, with amendments that made it yet more objectionable than in its original form, to wit: by providing in a new section (2) that said Bill would not apply to pending cases as to damages and costs only. It received the assent of the Lieutenant-Governor under the above title.

(20.) It passed through both Houses in direct violation of their rules, namely:—

(*a.*) No notice of said Bill was given in the District of Montreal, which, in fact is the one mostly effected by it.

(*b.*) The Bill goes further than the notices, in this, that it includes the words "within the limits of the Province of Quebec," which words change the nature and extent of the Bill altogether.

(*c.*) It was presented, and passed the first and second reading in the Legislative Council, without any petition having ever been presented in support of it.

(*d.*) It was never reported by the Committee of the Standing Orders of said Council, that the notices had or had not been given.

(*e.*) The rules of the Legislative Council were never suspended, so as to dispense with the notices of the Report of the Standing Orders Committee about the notices.

(*f.*) The three readings of said Bill in the Legislative Council were altogether irregular, and only passed after a formal protest was regularly entered into the journals of the Council against the violation by the majority of the Council, of the rules made for the protection of the minority thereof, and of private rights.

(21). The total disregard of these safeguards of public and private interests, and the passing of said Bill, were only had through a considerable pressure unduly exercised upon the consciences of the Catholic members of both Houses of Parliament, namely, by private and public letters of His Lordship the Roman Catholic Archbishop of Quebec, and some of the Bishops of said Province, who invoked the authority and the name of the Catholic dignitaries at Rome in favor of the said Bill, whilst your petitioners have reason to believe that said dignitaries had carefully refrained to interfere in a question then, and yet, pending before the Courts, and out of respect to Her Majesty, who, by Her Ministers, has peremptorily declined to entertain, pending said litigation, the demand of new powers which the Local Legislature of Quebec had presumed to grant to Laval University in excess of her Royal Charter.

(22). Your petitioners most respectfully beg leave to submit to Your Excellency the following documents annexed to this petition as forming part thereof :—

(*a.*) A printed copy of "*Constitution et réglements de l'Université Laval, 4^e Edition,* 1879," containing the text of the said Royal Charter, of a Bull of His Highness Pope Pius IX, granting the canonical erection of Laval as a Catholic University, and the rules and regulations of said University.

(*b.*) A printed pamphlet intituled : "*Questions sur la succursale de l'Université Laval,* 1881," containing a pamphlet in favor of the Bill, divers letters from Rome authorities, from the Archbishop of Quebec, the Archbishop of Marianopolis, &c., &c. Petitions to the Queen and to Quebec Legislature by the Archbishop of Quebec and a number of Bishops, in reference to said question of the branch faculties in Montreal.

(*c.*) Printed return to an Address of the Senate of Canada for copies of correspondence, petitions, &c., relating to the Laval University of Quebec, 1881, containing, among other documents, the letters of the Hon. J. Bramton, Under-Secretary of State for the Colonies above referred to.

(*d.*) A pamphlet printed by order of the Quebec Legislature containing the proceedings of the Private Bills Committee on said Bill No. 15, and the documents filed before it, 1881.

(*e.*) A printed copy of said Bill No. 15 as originally presented.

(*f.*) A French printed copy of the Bill No. 15, as amended and finally adopted.

(*g.*) A printed pamphlet issued by your petitioners, and containing information about, and the rules and regulations of the Montreal School of Medicine and Surgery, 1880.

(*h.*) Copy of the opinion of Mr. F. Herschell.

(*i.*) Copy of a notarial protest by your petitioners to Laval University, dated 4th October, 1880.

(*j.*) Copy of a second notarial protest dated March 23rd, 1881.

(*k.*) A series of the Votes and Proceedings of the Legislative Assembly of Quebec, 1881, mentioning petitions for and against said Bill No. 15 ; those of the 8th and 13th June, 1881, containing the proceeding of the House on said Bill No. 15.

(*l.*) A series of the Votes and Proceedings of the Legislative Council, mentioning petitions against and for said Bill No. 15 ; that of the 15th June, showing further that said Bill was brought with a message from the Legislative Assembly, and that said Bill was read on that day for the first time, and the second reading was ordered for Friday the 17th June ; that of the 17th June showing that the said Bill was read for the second time on that day, and referred to the Private Bills Committe ; that

the petition by "the Rector and members of the Laval University," in support of said Bill, was only presented on that day; that of the 21st June containing a Report of the Standing Orders and Private Bills Committee on said last petition, recommending that said petition be reported, notwithstanding that it was not presented within the time limited for the reception of petitions for Private Bills, which report was adopted on a division, and further containing a Report from said Committee, that it reported said Bill without amendment. That of the 22nd June, containing the proceedings of the Legislative Council on the said last Report, the third reading of the Bill No. 15, and a protest from Hon. J. L. Beaudry, a member of that body.

(*m.*) A printed copy of your petitioners' petition and demand of prohibition against said Laval University, in the Superior Court, sitting at Montreal, together with the Hon. L. Loranger's fiat and Judge Rainville's order.

(*n.*) Copy of the preliminary plea of Laval University to said petition, and your petitioners' answer thereto, and certificate.

(*o.*) A letter from S. Bircham to Dr. D. d'Orsonnens, dated 2nd May, 1881.

(*p.*) A list of petitions against said Bill No. 15.

Your petitioners most respectfully and humbly submit:—

Firstly. That the said Act is *ultra vires* of the Quebec Legislature and unconstitutional, inasmuch as it purports to extend the powers, privileges and franchises granted to Laval University by said Royal Charter in a matter which relates to the Royal prerogative of conferring honorary degrees and titles, namely, in assuming to extend the teaching power of Laval University to every city and town in the Province of Quebec, whilst Her Majesty only intended to confer, and only did confer the powers, franchises and privileges of a University to a Seminary located and teaching in the City of Quebec, and to "Laval University at Quebec, in the Province of Canada."

Secondly. That the passing of said Act by the Quebec Legislature, for the purpose of settling a pending law suit, by legislation, is immoral and destructive of the respect due to the Law Courts, and to the Legislature of the country.

Thirdly. That the passing of said Act by the Quebec Legislature, for the purpose of granting to Laval University the power of teaching elsewhere than in the City of Quebec, to which place it is restricted by its Royal Charter, while a demand of the same nature has been made by the said Laval University directly to, and is yet pending before Her Majesty, who has only declined to interpose and entertain said demand, so long as the question of the powers of said University are submitted to the decision of the Courts of law, but graciously keeping said demand in abeyance for future consideration, after a final adjudication by the Courts upon said question, is most disrespectful to Her Most Gracious Majesty and to her Government, and tends to discredit and abuse the dignity of Her Royal power and authority.

Fourthly. That your petitioners have been unfairly treated by said Laval University, who, in its desire to supplant and destroy the Medical School kept by them in Montreal since 1845, has made to it a most unfair competition, and caused a most disloyal war against it in every way and form.

Fifthly. That the Quebec Legislature has disregarded all principles of justice in passing said Bill, and violated all its rules and regulations to such an extent, that unless such course of proceedings be checked at once, there will be no protection either to private rights or to public interest.

Sixthly. That the object of the said Bill is to create a monopoly of high classical and University teaching in the Province of Quebec for the French Catholic population, thereby preventing all emulation both among professors and students, to the great detriment of progress, of sciences, and giving to a single Corporation such a powerful and omnipotent influence over the educated portion of the population of this Province, as to be detrimental to the well being of said Province.

Seventhly. That the French Catholic population of that section of the Province, extending south of the Archdiocese of Quebec, to wit: of three-fourths at least of the whole Province, including the rural clergy, is opposed almost unanimously to the granting of such extended powers to Laval University, as evidenced by the 340

petitions, and one presented to the three branches of the Quebec Legislature against the passing of said Bill.

Eighthly. That the legislation embodied in the said Act is contrary to sound principles of legislation, inasmuch as it is declaratory of the powers contained in the said Royal Charter, while the question of such powers is *sub judice*, and it declares to have been the law, that which was not the law, and legislates *ex post facto*, is retroactive, affects pending cases and interferes with private rights; and inasmuch as said Local Legislature has, without any demand, assumed to interfere with private parties engaged in litigation, and to disregard the well-being and wishes of all the population to be affected by such legislation, in order to satisfy the ambition of an already overpowerful Corporation;

Your petitioners most respectfully and humbly submit—

That an order should be made by Your Excellency for the disallowance of the said Act.

And your petitioners will ever pray.

(Signed) THS. E. D'ODET D'ORSONNENS, M.D., C.M., LL.D.,
President.

[L.S.] (Signed) J. EMERY CODERRE,
Secretary.

MONTREAL, 8th August, 1881.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th July, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to make the following additional Report upon the Acts passed by the Legislature of Quebec in the year 1881.

Chap. 46. An Act respecting Laval University, and for the purpose of increasing the number of its Chairs of Arts and other Faculties within the limits of the Province of Quebec.

The Montreal School of Medicine and Surgery have, by their petition to Your Excellency, prayed that this Act be disallowed, and have stated a number of grounds in support of their petition. The undersigned is of opinion that the Act is within the powers expressly conferred upon the Legislature by "The British North America Act," and therefore recommends that it be not disallowed.

Chap. 69. An Act to incorporate the Canadian Electric Light Company.

By Section 20 of this Act *inter alia* a penalty is imposed on "anyone who wilfully or maliciously breaks up, pulls down or damages, injures, puts out of order or destroys any wire, injures pipe or plug used for an electric circuit, or any instrument, meter, lamp post, abutment, pier, or the materials connected therewith, or any other works or apparatus, appurtenances or dependencies thereof, or any matter or thing made and provided for the purposes aforesaid, or any of the materials used and provided for the same or ordered to be erected, laid down or belonging to the Company.

By 32 and 33 Vic., Chap 22, Secs. 59 and 60 (Acts of Parliament of Canada), the offence created by the part of the section recited is a misdemeanor, if the damage exceed $20, or an offence punishable by fine, and in case the fine is not paid, by imprisonment.

Chap. 72. An Act to incorporate the Quebec and Lévis Telephone Company.

The same conflict of law is created by the 9th Section of this Act.

The undersigned recommends that the attention of the Lieutenant-Governor of Quebec be called to these sections, with a view to their amendment at the next Session of the Quebec Legislature.

A. CAMPBELL,
Minister of Justice.

Confidential Memorandum of the Hon. the Minister of Justice.

MEMORANDUM *in regard to "An Act respecting Laval University, and for the purpose of increasing the number of its Chairs of Arts and other Faculties within the limits of the Province of Quebec," passed by the Legislature of the Province of Quebec in the year* 1881, *stating reasons for recommending that the Act be not disallowed.*

The Montreal School of Medicine and Surgery have petitioned His Excellency, and prayed that this Act be disallowed. The grounds put forward are, briefly:

1st. That it is *ultra vires*, as extending the Royal Charter by which Laval University is incorporated.

2nd. That it is passed while the powers of Laval University are under consideration in the Courts, and for the purpose of settling an existing suit. That the legislation is therefore improper, and tends to destroy public respect for the Courts.

3rd. That it was passed without due compliance with the rules of the Legislature of Quebec, and in violation of those rules.

4th. That the legislation is *ex post facto.*

5th. That there were only four petitions before the Legislature in favor of it, and a large number against it, showing that the French Catholics are opposed to the Act.

6th. That Laval University has for years warred against the Montreal School of Medicine and Surgery, and that if the Act is not disallowed the competition of the former will not only be unfair but fatal to the latter. That at the time it was passed, the Montreal School of Medicine and Surgery had an application before Her Majesty for a Charter giving similar powers.

As to the first ground, the undersigned is of opinion that the Act is within the powers expressly conferred upon the Legislature by "The British North America Act," and is not *ultra vires*, even if it does extend the powers conferred upon Laval University by the Royal Charter.

As to the second ground, the undersigned is of opinion that it does not in this case afford a sufficient reason for recommending the disallowance of the Act, and in this connection would observe that, although the Act may extend the powers of the Laval University, it takes away none of the rights or powers of the Montreal School of Medicine and Surgery, or of any other person or body politic. It differs materially from the case of an Act affecting an ordinary suit, or matters of dispute between individuals, where what is taken from one litigant is given to the other.

As to the third ground, the undersigned is of opinion that as the Act comes properly certified, it must be assumed that it was properly enacted—the Legislature must judge for itself as to what is a sufficient compliance with the rules which it has ordained for the orderly conduct of its business.

As to the fourth objection, the undersigned would observe that it is by no means clear that the Act is retroactive in its effect, and whether it is or not, he is of opinion that this of itself does not afford sufficient reason for its disallowance.

There is nothing in the fifth, sixth or seventh grounds to justify the disallowance of this Act.

The objections were proper matters for the consideration of the Legislature, but cannot, in the opinion of the undersigned, be taken into account in this case, in deciding the question as to whether the Act should be disallowed or not.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th July,* 1882.

On a Report dated 18th July, 1882, from the Minister of Justice, stating that, with respect to Chapters 46, 69 and 72 of the Acts passed by the Legislature of Quebec in the year 1881, he has deemed it expedient to make an additional Report.

That as regards Chapter 46, the Minister observes that the Montreal School of Medicine and Surgery have, by their petition to Your Excellency, prayed that this Act be disallowed, and have stated a number of grounds in support of their petition. He, the Minister, is of opinion that the Act is within the powers expressly conferred upon the Legislature by "The British North America Act," and therefore recommends that it should be not disallowed.

That as regards Chapter 69, the Minister observes that by Section 20 of this Act, *inter alia*, a penalty is imposed on anyone who "wilfully or maliciously breaks up, pulls down or damages, injures or puts out of order or destroys any wire, engine, pipe or plug used for an electric circuit, or any instrument, meter, lamp post, abutment, pier, or the materials connected therewith, or any other works or apparatus, appurtenances or dependencies thereof, or any matter or thing made and provided for the purposes aforesaid, or any of the materials used and provided for the same, or ordered to be erected, laid down or belonging to the Company." By 32 and 33 Vic., Chap. 22, Secs. 59 and 60 (Acts of Parliament of Canada) the offence created by the part of the section recited is a misdemeanor, if the damage exceeds $20, or an offence punishable by a fine; and, in case the fine is not paid, by imprisonment.

And as regards Chapter 72, the same conflict of law is created by the 9th Section of this Act.

The Committee concur in the foregoing Report of the Minister of Justice, and they recommend that the attention of the Lieutenant-Governor of Quebec be called to these sections, with a view to their amendment at the next Session of the Quebec Legislature.

JOHN J. McGEE.
Clerk Privy Council.

QUEBEC, 45TH VICTORIA, 1882.

1ST SESSION—5TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th June, 1883.

To His Excellency the Governor General in Council:

The undersigned has had under consideration the Acts passed by the Legislature of the Province of Quebec in the Session of 1882, the Titles and Chapters of which are as follows:—

Chap. 1. An Act granting to Her Majesty the Moneys required for the expenses of the Government for the financial years ending on the 30th June, 1882, and on the 30th June, 1883, and for other purposes connected with the Public Service.

Chap. 2. An Act respecting the Executive Council.

Chap. 3. An Act relating to the Speaker of the Legislative Council.

Chap. 4. An Act to facilitate the intervention of the Crown in Civil Cases in which the constitutionality of Federal or Provincial Acts is in question.

Chap. 5. An Act to amend the Quebec Interpretation Act (31 Vic., Cap. 7).

Chap. 6. An Act to remove certain disabilities arising from infringement of "The Quebec Election Act."

Chap. 7. An Act to abolish the property qualification of Members of the Legislative Assembly of Quebec.

Chap. 8. An Act to further amend the Act 41 Victoria, Chapter 5, amending the Act 32 Victoria, Chapter 15, respecting Agriculture and Public Works.

Chap. 9. An Act to amend the Quebec License Law of 1878 (41 Vic., Chap. 3).

Chap. 10. An Act to amend the Act respecting the Sale and Management of Public Lands.

Chap. 11. An Act to amend the Act 34 Victoria, Chapter 19, respecting the clearing of Lands and the protection of Forests against Fires.

Chap. 12. An Act for the protection of Settlers.

Chap. 13. An Act to encourage the Planting of Forest Trees.

Chap. 14. An Act to amend "The Quebec General Mining Act of 1880."

Chap. 15. An Act to amend and consolidate the General Laws of this Province.

Chap. 16. An Act respecting the Land Surveyors of the Province of Quebec, and the Survey of Lands.

Chap. 17. An Act respecting the percentage payable by Public Officers on their fees.

Chap. 18. An Act authorizing the issue of Provincial Debentures.

Chap. 19. An Act ordering and confirming the sale of that part of the Quebec, Montreal, Ottawa and Occidental Railway extending from Montreal to St. Jerome, Aylmer and the City of Ottawa.

Chap. 20. An Act to order and confirm the sale of that portion of the Quebec, Montreal, Ottawa and Occidental Railway known as the Eastern Section, and extending from St. Martin's Junction to the City of Quebec.

Chap. 21. An Act appropriating the price of the Quebec, Montreal, Ottawa and Occidental Railway to the payment of the Consolidated Debt of the Province.

Chap. 22. An Act to impose certain direct Taxes on certain Commercial Corporations.

Chap. 23. An Act to grant Subsidies for the construction of certain Railways.

Chap. 24. An Act respecting the subsidy granted to the Beet Sugar Company of the Province of Quebec, and the Bonus to be paid out of such grant for the culture of beet roots.

Chap. 25. An Act respecting the Building and Jury Fund.

Chap. 26. An Act respecting the building of the Court House of Quebec.

Chap. 27. An Act to amend the Act, 24 Vic., Chap. 26, and other Acts, respecting the Recorder's Court of the City of Quebec.

Chap. 28. An Act to authorize the Catholic School Commissioners of the Town of Sorel to contract certain loans.

Chap. 29. An Act to permit the School Commissioners and Trustees of this Province to remit the school taxes in certain cases and for other purposes.

Chap. 30. An Act to amend the Acts respecting the notarial profession.

Chap. 31. An Act to render valid certain notarial deeds.

Chap. 32. An Act to amend the Act 42-43 Vic., Chap. 37, respecting the profession of Medicine and Surgery.

Chap. 33. An Act to amend Article 494 of the Code of Civil Procedure of Lower Canada.

Chap. 34. An Act to amend Article 556 of the Code of Civil Procedure.

Chap. 35. An Act to further amend the Municipal Code of the Province of Quebec.

Chap. 36. An Act to amend certain provisions of the Municipal Code.

Chap. 37. An Act to amend Chapter 71 of the Consolidated Statutes of Canada, and the Act of this Province. 32 Vic., Chap. 43.

Chap. 38. An Act respecting the legalizing and the custody of registers of burial kept by the Congregation of Notre-Dame de Montréal at Villa Maria.

Chap. 39. An Act to complete the provisions respecting the civil erection of the Parishes of Montreal.

Chap. 40. An Act to detach the Townships of Wolfe, Salaberry and Grandison, situated in the County of Argenteuil, and to annex them to the County of Terrebonne for electoral judicial registration, and all other purposes whatsoever.

Chap. 41. An Act to civilly erect the Parish of Notre Dame des Anges de Montauban, in the County of Portneuf, and the Parish of Saint-Cajétan d'Armagh, in the County of Bellechasse.

Chap. 42. An Act to detach " Hare Island " from the County of Charlevoix and annex it to the County of Kamouraska.

Chap. 43. An Act to erect the Parish of St. Anastasie de Nelson into a separate Municipality.

Chap. 44. An Act to detach from the Parish of Varennes, County of Verchères, three islands in the River St. Lawrence, and to annex the same to the Parish of Repentigny, County of L'Assomption, for electoral, municipal, scholastic and other purposes.

Chap. 45. An Act to establish the position and extent of certain ranges in the Township of Irving.

Chap. 46. An Act to establish the position of certain lines in the Township of West Chester.

Chap. 47. An Act to amend and supplement the Act respecting the declaration to be made by incorporated Companies (40 Vic., Chap. 15).

Chap. 48. An Act to permit Companies incorporated by special Statutes to increase their capital stock.

Chap. 49. An Act to provide for the inspection of Provincial Insurance Companies.

Chap. 50. An Act to amend the Act 24 Vic., Chap 32, respecting Mutual Insurance Companies.

Chap. 51. An Act respecting Mutual Fire Insurance Companies.

Chap. 52. An Act to incorporate the Wentworth Railway Company.

Chap. 53. An Act to incorporate "The Baie des Chaleurs Railway Company."

Chap. 54. An Act to incorporate the Three Rivers and North-Western Railway Company.

Chap. 55. An Act to amend the Act incorporating "The North Shore Railway and Tunnel Company."

Chap. 56. An Act to incorporate the Longueuil Wharf and Elevator Company.

Chap. 57. An Act to incorporate the "Ottawa Colonization Railway Company."

Chap. 58. An Act to incorporate "The Leeds and Eastern Townships Railway Company."

Chap. 59. An Act to authorize the St. Andrews Junction Railway Company to amalgamate with other Companies and to issue Mortgage Bonds.

Chap. 60. An Act to grant further powers to the "Turnpike Road Company of Ile Jésus," and to authorize it to increase its capital.

Chap. 61. An Act to incorporate the St. Hyacinthe Macadamizing Company.

Chap. 62. An Act to amend the Act 41 Vic., Chap. 52, incorporating the Beet Sugar Company of the Province of Quebec.

Chap. 63. An Act to enable the Pioneer Beet Root Sugar Company to increase its capital and to borrow money upon debentures.

Chap. 64. An Act to enable the Liverpool and Globe Insurance Company to contract, and to sell and be sold, in the Province of Quebec, in the name of the Company, and for other purposes.

Chap. 65. An Act respecting Societies and Establishments, in this Province, for the manufacture of butter or cheese, or of both combined.

Chap. 66. An Act to authorize the formation of a Society under the name of the "Industrial Dairy Society of the Province of Quebec."

Chap. 67. An Act to incorporate the "French Phosphate Company of Canada."

Chap. 68. An Act to incorporate "The Canada Lime and Phosphate Company."

Chap. 69. An Act to incorporate "The Agricultural and Manufacturing Company of Témiscouata."

Chap. 70. An Act to incorporate the Quebec Mineral Working and Forwarding Company.

Chap. 71. An Act to incorporate "The Island of Orleans Mining Company."

Chap. 72. An Act to incorporate "The Sherbrooke Iron Manufacturing Company."

Chap. 73. An Act to incorporate "The Sherbrooke Mining and Smelting Company."

Chap. 74. An Act to amend the Act incorporating the Quebec and Lake Superior Mining Association.

Chap. 75. An Act to change the name of "The Lawlor Manufacturing Company" into that of "The Belmont Manufacturing Company."

Chap. 76. An Act to amend the Act incorporating the French Canadian Artizans' Society of the City of Montreal (40 Vic., Chap. 63).

Chap. 77. An Act to incorporate the "Rolland Paper Company."

Chap. 78. An Act to incorporate the Montreal General Trust Company.

Chap. 79. An Act to incorporate the St. Hyacinthe Gas Company.

Chap. 80. An Act to amend the Act incorporating the Canadian Electric Light Company.

Chap. 81. An Act to confirm the Fifty Years' Privilege granted to the Louisville Waterworks Company by the Municipal Council of the Town of Louisville.

Chap. 82. An Act to authorize the Montreal Abattoir Company to borrow money and issue debentures.

Chap. 83. An Act to incorporate the St. Maurice Driving and Rafting Company.

Chap. 84. An Act to amend the Charter of the Crédit Foncier Franco-Canadien.

Chap. 85. An Act to incorporate Le Crédit Mobilier et Agricole de Québec.

Chap. 86. An Act to incorporate the Crédit Mobilier Canadien.

Chap. 87. An Act respecting the administration of the property of the Roman Catholic Bishop of Montreal, in the Province of Lower Canada.

Chap. 88. An Act to authorize the Church Society of the Diocese of Quebec to consolidate certain endowment funds.

Chap. 89. An Act to incorporate Le Collège Commercial de Varennes.

Chap. 90. An Act to amend the Act 24 Victoria, Chapter 109, to incorporate Morrin College, Quebec.

Chap. 91. An Act to incorporate L'Académie des Garçons de St. Joseph de Lévis.

Chap. 92. An Act to incorporate the West End Free Dispensary.

Chap. 93. An Act to incorporate the Hospice de St. Joseph de la Délivrance.

Chap. 94. An Act to incorporate L'Orphelinat de Marieville.

Chap. 95. An Act to incorporate La Trappe de Notre Dame du Lac des Deux Montagnes.

Chap. 96. An Act to incorporate L'Union St. Joseph de St. Césaire.

Chap. 97. An Act to incorporate The Septuor Haydn of Quebec.

Chap. 98. An Act to incorporate the Sherbrooke Turf Club.

Chap. 99. An Act to incorporate the Quebec Hotel Company.

Chap. 100. An Act to further amend the Acts relating to the incorporation of the City of Quebec.

Chap. 101. An Act to amend the Act of incorporation of the City of Three Rivers, 38 Vic., Chap. 76.

Chap. 102. An Act to amend the various Acts relating to the incorporation of the Town of Sorel.

Chap. 103. An Act to incorporate the City of Richmond.

Chap. 104. An Act to further amend the provisions of the various Acts relating to the incorporation of the Town of Lachine.

Chap. 105. An Act to authorize and empower Jean Cyrille Bédard to construct and maintain booms across the River St. Francis near "Maher's Mills," in the Township of Melbourne, in the County of Richmond, and for other purposes.

Chap. 106. An Act to incorporate the Drummondville Bridge Company.

Chap. 107. An Act to authorize Jean Baptiste Roy and others of the Parish of St. Francis, in the District of Montmagny, to erect a bridge on the Rivière du Sud in the said parish, and for other purposes.

Chap. 108. An Act to extend the privileges and powers of the St. Francis Bridge Company.

While respectfully recommending that the said Acts be left to their operation the undersigned desires to observe:

(1.) That in Acts authorizing municipal and other corporations to borrow money, it is convenient for Local Legislatures to give power to pay interest, and also to limit the rate of interest which the corporation may pay, probably no objection exists to a Local Legislature enacting that a corporation may pay any rate that may be legally agreed upon, or that it may pay a fixed rate within the maximum rate at the time lawfully established. In a number of Acts of this Session there are provisions of this kind where the power of Parliament to legislate on the subject of interest is in this way indirectly recognized.

In other cases it is not. It is desirable in all cases that Acts of the Local Legislature should be so drawn as to recognize the fact that Parliament has the exclusive legislative authority over the subject of interest.

(2.) By the 1st section of Chapter 4, intituled: "An Act to facilitate the intervention of the Crown in civil cases, in which the constitutionality of Federal or Provincial Acts is in question," it is provided as follows:—

"No question as to constitutionality of any Act of the Province or of the Federal Parliament shall be raised before the Courts of original jurisdiction or of appeal, unless the party raising the same shows to the Court that he has, at least, eight days before the day fixed for the hearing given notice to the Attorney-General of the question which he intends to raise, with sufficient information to enable him to understand the nature of his pretensions; upon such notice the Attorney-General may intervene in the case on behalf of the Crown, and take issue in writing on such questions, and the judgment of the Court, whether it grant or refuse his conclusions,

shall mention such intervention and such conclusions on which it shall render judgment, as if the Attorney-General were party to the suit, and a copy of such judgment shall be forwarded without delay to the Attorney-General.

So far as this section deals with Acts of Parliament, it is, in the opinion of the undersigned, objectionable, to say nothing more, and ought to be amended by striking out the words, "or of the Federal Parliament."

(3.) Chapter 9. An Act to amend the Quebec License Law of 1878 (41 Vic., Chap. 3), is, in the opinion of the undersigned, *ultra vires* of the Local Legislature.

Attention has been frequently called to Acts of this class, but hitherto they have been left to their operation. Now that Parliament has legislated upon the subject, it will become necessary to consider the question of disallowing legislation by the Local Legislature on this subject in excess of their powers.

However, as the Act under consideration was passed before the decision in Russell *vs.* The Queen, it may, it is thought, together with the Act of which it is an amendment, be left to fall by the decisions of the Courts, and it is not necessary to disallow it.

(4.) A petition has been received from certain Insurance Companies doing business at Montreal, praying for the disallowance of Chap. 22, intituled: "An Act to impose certain Direct Taxes on certain Commercial Corporations."

As the question of the validity of this Act is now before the Courts, it is unnecessary to consider the grounds upon which the petitioners urge that it is outside the Legislative authority of the Legislature, or to express any opinion in regard thereto.

It ought, in the opinion of the undersigned, for the present, be left to its operation and for Judicial decision.

(5.) With respect to the 2nd Section of Chap. 35, intituled: "An Act to further amend the Municipal Code of the Province of Quebec," the undersigned is of opinion that to apply the provisions of law therein quoted to Federal Government Railways, is beyond the power of the Provincial Legislature. The section should be so amended as to exclude Government Railways the property of the Dominion.

(6.) By the 12th Sub-section of the 23rd Section of Chapter 103, intituled: "An Act to incorporate the Town of Richmond," the Town Council is given power to make by-laws to restrain, regulate or prohibit the sale of any spirituous, alcoholic or intoxicating liquors within the limits of the town.

The observations in regard to Chapter 9 apply to this provision. If these observations are approved of, the undersigned recommends that the substance of them be communicated to the Lieutenant-Governor of Quebec, for the consideration of his Government, to the end that they may invite such legislation at the next Session of the Quebec Legislature, as will meet the amendments suggested.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the 7th June,* 1883.

The Committee of the Privy Council have had before them a Report dated 5th June, 1883, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Quebec in the Session of 1882, the 45th year of Her Majesty's Reign.

On the recommendation of the Minister of Justice the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters 1 to 108 inclusive, and they further advise that the observations of the Minister of Justice on several of the said Acts, be communicated to the Lieutenant-Governor of Quebec for the consideration of His Goverment, to the end that

they may invite such legislation at the next Session of the Quebec Legislature, as will meet the amendments suggested.

JOHN J. McGEE.
Clerk, Privy Council.

QUEBEC, 46TH VICTORIA, 1883.

2ND SESSION—5TH PARLIAMENT.

The Hon. Minister of Justice to Hon: P. Fortin.

DEPARTMENT OF JUSTICE, OTTAWA, 5th June, 1883.

SIR,—I have the honor to acknowledge the receipt of your letter of the 23rd ult. enclosing resolutions passed by twelve municipalities in the County of Gaspé, asking that the Act passed by the Legislature of Quebec at its last Session, to amend the law respecting the constitution of the Superior Court, should be disallowed.

After careful consideration of the subject, I do not see that I can advise His Excellency the Governor General in Council to disallow the Act in question.

The subject is one particularly and exclusively assigned to the Provincial Legislature by the Constitution, and the Act so far as I can judge, is quite within the competence of that Legislature.

I have, &c.,

(Signed) A. CAMPBELL,
Minister of Justice.

The Hon. P. FORTIN, M.P.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd June, 1884.

To His Excellency the Governor General in Council:—

The undersigned has the honor to submit his Report on the Acts of the Legislature of Quebec, passed in the Session held in the year 1883.

Chapter 13, intituled: "An Act to amend the law respecting the constitution of the Superior Court," assigns an additional Judge to the district of Quebec, and provides that the Judge to whom it is assigned in the County of Gaspé, shall also exercise his

functions in the County of Bonaventure. Resolutions were passed by twelve municipalities of the County of Gaspé asking that this Act be disallowed, and were transmitted to this Department by Dr. Fortin.

To these resolutions the undersigned replied that, after careful consideration of the subject, he could not see his way to advising His Excellency to disallow the Act, that the subject of the Act was one particularly and exclusively assigned to the Provincial Legislature by the Constitution, and the Act was within the competency of that Legislature.

Parliament has made provision for the payment of Judges in accordance with this Act, which in the opinion of the undersigned, should be left to its operation.

Chapter 55, intituled: "An Act to confirm the Act of the Federal Parliament, 45 Vic., Chap. 101, intituled: 'An Act to amend and extend the Act to empower the Stadacona Fire and Life Insurance Company to relinquish their Charter and to provide for the winding up of their affairs,' and to render valid the provisions of the said Act and to give effect thereto."

This Act is passed apparently because doubts have arisen as to the authority of Parliament to make provision that, in the winding up of the Company mentioned, proceedings for the recovery of claims must be taken within one year, Parliament having the authority to legislate in regard to the winding up of this Company on account of its insolvency would, it is thought, have power to enact the provision mentioned.

At most, however, the Act is only an unnecessary one, and as it affects no general interests, and was passed for the quieting of doubts, the undersigned while stating that he does not share those doubts, recommends that it be left to its operation.

Chapter 76, intituled: "An Act to incorporate the Citizens Gas Company of Montreal." By section 25 a penalty is imposed for the offence of obtaining or using the Companys' gas without their consent by connecting with their pipes. This has been held to be larceny. Regina *vs.* Firth—L.R. 1, C.C.R. 172.

By sections 26 and 29, penalties are imposed for wilful and malicious injuries to the property of the Company for which provision is made by the Act of Parliament 32 and 33 Vic., Chap. 22, intituled: An Act respecting malicious injuries to property.

The undersigned recommends that this Act be left to its operation, and that the attention of the Lieutenant-Governor of Quebec be called to the provisions of Sections 25, 26 and 29, with a view to their being amended in the direction indicated.

After careful consideration the undersigned recommends that the remaining Acts of the Session, the titles and chapters of which are set forth in the Schedule hereto annexed, be left to their operation.

(Signed) A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Cap. 1. An Act granting to Her Majesty the Moneys required for the expenses of the Government, for the financial years ending on the 30th June, 1883, and on the 30th June, 1884, and for the other purposes connected with the Public Service.

Cap. 2. An Act to amend the Quebec Election Act.

Cap. 3. An Act respecting the Department of the Attorney-General.

Cap. 4. An Act respecting the Provincial Auditor, the Treasury Board and Public Accounts.

Cap. 5. An Act respecting certain License Duties imposed for the raising of Revenue for the purposes of the Province.

Cap. 6. An Act to change the title of the Revenue Officer styled License Inspector.

Cap. 7. An Act to amend the Act 45 Vic., Chap. 22, intituled: "An Act to impose certain direct taxes on certain commercial corporations.

Cap. 8. An Act respecting the management of public lands adjoining non-navigable streams and lakes in the Province of Quebec, and the exercise of the fishing rights thereto pertaining.

Cap. 9. An Act to further amend Chapter 23 of the Consolidated Statutes of Canada, respecting the sale and management of timber on public lands, and the Acts amending the same.

Cap. 10. An Act to provide means for the more effectual prevention of forest fires.

Cap. 11. An Act to authorize the raising by way of loan of an additional sum for the requirements of the Province.

Cap. 12. An Act to amend the Act 32 Victoria, Chapter 15, respecting Agricultural Societies.

Cap. 14. An Act to amend Chapter 80 of the Consolidated Statutes of Lower Canada, respecting the Administration of Justice in the District of Gaspé.

Cap. 15. An Act to aid in the maintenance of Common Gaols.

Cap. 16. An Act to amend and consolidate the Acts respecting Jurors and Juries.

Cap. 17. An Act respecting the collection of municipal contributions to the Building and Jury Funds.

Cap. 18. An Act respecting the collection of the cost of maintaining the Insane.

Cap. 19. An Act to extend the provisions of the Act of this Province, 45 Vic., Cap. 49, respecting the inspection of Provincial Insurance Companies, to other Companies than those therein mentioned, and for other purposes.

Cap. 20. An Act to amend the laws respecting Public Instruction in this Province.

Cap. 21. An Act to amend the law respecting Public Instruction, in so far as respects the Town of Richmond.

Cap. 22. An Act to provide for a final settlement of the Common School Fund.

Cap. 23. An Act to amend Article 2160 of the Civil Code.

Cap. 24. An Act to amend the Act respecting Trusts, and the Act defining the investments to be made by Administrators (42 and 43 Victoria, Chapters 29 and 30).

Cap. 25. An Act to amend the Act, 44-45 Victoria, Chaper 16, to extend the delay for registering the customary dowers and servitudes mentioned therein, and to provide for a more efficient publication of the said Act.

Cap. 26. An Act to amend the Code of Civil Procedure.

Cap. 27. An Act respecting the Petition of Right.

Cap. 28. An Act to further amend the Municipal Code.

Cap. 29. An Act respecting snow fences.

Cap. 30. An Act to amend and consolidate the various Acts respecting the study of Anatomy.

Cap. 31. An Act to amend the Act incorporating the Montreal Homœopathic Association.

Cap. 32. An Act to amend the various Acts respecting the Notarial Profession, and to consolidate them into one Act under the name of the "Notarial Code."

Cap. 33. An Act to authorize the Board of Notaries to admit Napoléon Théoret to the practice of the Notarial Profession.

Cap. 34. An Act to amend and consolidate the Law respecting the Dental Association of the Province of Quebec.

Cap. 35. An Act to amend the Act 45 Vic., Chap., 16, intituled: "An Act respecting the Land Surveyors of the Province of Quebec, and the survey of lands."

Cap. 36. An Act to detach the Township of Doncaster, situate in the County of Montcalm and to annex it to the County of Terrebonne, for electoral and judicial registration, and all other purposes whatsoever.

Cap. 37. An Act to detach a certain part of the County of Montmagny and to annex it to the County of Bellechasse for electoral, registration, municipal and school purposes.

Cap. 38. An Act to detach certain portions of the Parish of Saint Samuel, in the County of Nicolet, and of Saint Frédéric, in the County of Drummond, and to annex

them to the Parish of Saint Clothilde de Horton, in the County of Arthabaska, and to the said County of Arthabaska, for electoral, judicial, school, municipal, registration, and all other civil purposes whatsoever.

Cap. 39. An Act to detach the Township of Metgermette North from the County of Dorchester and to annex it to the County of Beauce, for electoral, judicial, municipal, school and registration proposes.

Cap. 40. An Act to civilly erect the Parish of Notre Dame Auxiliatrice de Buckland, in the County of Bellechasse.

Cap. 41. An Act to remove all doubts as to the legal existence of the Municipality of the Parish of Notre Dame de Bonsecours, in the County of Ottawa and District of Ottawa.

Cap. 42. An Act to change the name of the "Municipality of the Eastern portion of the Township of Tingwick into that of the "Municipality of St. Rémi de Tingwick."

Cap. 43. An Act to facilitate the building of a Church and Sacristy in the Parish of St. Charles Borrommée de Joliette, in the Diocese of Montreal.

Cap. 44. An Act to extend the provisions of the Act 32 Vic., Chap. 73, to Apostolic Vicariates and Prefectures.

Cap. 45. An Act to authorize the Curé and Churchwardens of the Parish of Notre Dame de Québec to borrow a certain sum of money upon the security of its property.

Cap. 46. An Act to enable the Incumbent and Churchwardens of the Church of St. James, Hull, to dispose of certain immovable property, and to invest the proceeds thereof.

Cap. 47. An Act to authorize the Sisters of Providence and the St. Patrick's Orphan Asylum of Montreal to sell certain property.

Cap. 48. An Act to confirm the ownership and authorize the sale of certain land belonging to the Fabrique of St. Polycarpe.

Cap. 49. An Act to authorize "The Synod of the Diocese of Montreal" to sell certain real estate.

Cap. 50. An Act to authorize the sale of the Quebec National School property.

Cap. 51. An Act to relieve Henry Talbot Walcot from his office of Trustee to Dame Isabella Abbott Young.

Cap. 52. An Act to authorize Alfred Charles Pinsonneault to sell certain properties.

Cap. 53. An Act to change the name of "The Orford Nickel and Copper Company."

Cap. 54. An Act to make certain provisions concerning the Common La Baie St. Antoine or Baie du Febvre.

Cap. 56. An Act to allow the Loan and Landed Credit Company to reduce the number of its permanent shares and to grant it certain powers.

Cap. 57. An Act to grant additional powers to the Canada Worsted Company.

Cap. 58. An Act to authorize Laurent Gagnon of the Parish of Ste. Henedine to exact certain tolls upon a bridge which he has built on the River Etchemin in the Parish and near the Church of Ste. Claire, in the County of Dorchester, and for other purposes.

Cap. 59. An Act to authorize Onézime Latulippe, of the Parish of St. Francis, in the County of Beauce, to construct a toll bridge over the River Chaudière.

Cap. 60. An Act to authorize Léon Montplaisir, of the Parish of St. Léonard, in the County of Nicolet, to erect a toll bridge on the River Bécancourt, near the Church of the Parish of Bécancourt, in the County of Nicolet, and to exact certain tolls on the said bridge.

Cap, 61. An Act to incorporate "The Chapter of the Cathedral of Saint Germain of Rimouski."

Cap. 62. An Act to incorporate the "Dominicans or Preaching Friars of the Province of Quebec."

Cap. 63. An Act to amend the Act to incorporate the Stanstead Wesleyan College.

Cap. 64. An Act to amend the Act relating to the incorporation of Notre Dame Hospital at Montreal.

Cap. 65. An Act to incorporate the "Quebec City Mission."

Cap. 66. An Act respecting "The Trafalgar Institute."

Cap. 67. An Act to incorporate the religious congregation called "Temple Emmanu-El."

Cap. 68. An Act to incorporate "The Associated Press of the Province of Quebec."

Cap. 69. An Act to incorporate the National Monument Company.

Cap. 70. An Act to incorporate the General Colonization and Industrial Enterprise Company.

Cap. 71. An Act to incorporate "The Pinnacle Mining Company (Limited)."

Cap. 72. An Act to amend the Act incorporating the Montreal Loan and Mortgage Company.

Cap. 73. An Act to incorporate "The Richelieu Paper Manufacturing Company."

Cap. 74. An Act to incorporate "La Compagnie de l'Hôtel Chateau St. Louis."

Cap 75. An Act further to amend the Act incorporating the Richelieu River Hydraulic and Manufacturing Company.

Cap. 77. An Act to amend the Act incorporating the Canadian Electric Light Company.

Cap. 78. An Act to amend the Acts concerning the City of Montreal.

Cap. 79. An Act to amend the Act to incorporate the City of Hull, 38 Vic., Chap. 79 and the Act 39 Vic., Chap. 49, amending the same.

Cap. 80. An Act to amend and consolidate the Act incorporating the Town of Fraserville.

Cap. 81. An Act to incorporate the Town of Laurentides.

Cap. 82. An Act to incorporate the Town of Hochelaga.

Cap. 83. An Act to further amend the Act to incorporate the Town of Salaberry of Valleyfield.

Cap. 84. An Act to incorporate the Town of Montmagny.

Cap. 85. An Act to amend the law respecting subsidies in money to certain Railways.

Cap. 86. An Act to amend the Quebec Consolidated Railway Act, 1880, 43-44 Victoria, Chapter 43.

Cap. 87. An Act to incorporate the "Great Northern Railway Company."

Cap. 88. An Act to amend and consolidate the various Acts respecting the Quebec and Lake St. John Railway Company.

Cap. 89. An Act to incorporate the Papineau Seigniory Railway Company.

Cap. 90. An Act to incorporate the United Counties Railway Company.

Cap. 91. An Act to amend the Acts respecting the Lake Champlain and St. Lawrence Junction Railway Company, and to extend the delay granted for the completion of the said Railway.

Cap. 92. An Act to incorporate the St. Lawrence and Témiscouata Railway Company.

Cap. 93. An Act to incorporate the "Lake Témiscamingue Railway Company."

Cap. 94. An Act to incorporate the Saguenay and Lake St. John Railway Company.

Cap. 95. An Act to incorporate the Cap Rouge and St. Lawrence Railway Company.

Cap. 96. An Act to incorporate the Rimouski and Gaspé Railway Company.

Cap. 97. An Act to further amend the Act incorporating the Waterloo and Magog Railway Company.

Cap. 98. An Act to incorporate the Iberville and Missisquoi Counties Railway Company.

Cap. 99. An Act to incorporate the Massawippi and Magog Junction Railway Company.

Cap. 100. An Act to incorporate the "Lachine and Hochelaga Railway Company."

Cap. 101. An Act to amend the Act incorporating "The Jacques Cartier Union Railway Company."

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th June*, 1884.

The Committee of the Privy Council have had before them a Report dated 23rd June, 1884, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Quebec, in the Session thereof held in the year 1883, being in the 46th year of Her Majesty's reign.

The Committee, on the recommendation of the Minister of Justice, advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters 1 to 101 inclusive, and they further advise that the attention of the Lieutenant-Governor of Quebec be called to the Report of the Minister of Justice as respects Chapters 13, 55 and 76.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

QUEBEC, 47TH VICTORIA, 1884.

3RD SESSION—5TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 10th June, 1885.

To His Excellency the Governor General in Council.

The undersigned having had under consideration the Acts passed by the Legislature of the Province of Quebec, in the Session held in the year 1884, has the honor to recommend that the Acts, of which the titles and chapters are given in the annexed Schedule, be left to their operation.

Cap. 77. An Act to authorize the Government of Quebec to take possession of a certain toll-bridge over the River Richelieu.

A petition was presented on the 1st of August last by the Hon. R. Laflamme, Q.C., acting on behalf of the representatives of the late Hon. Robert Jones, to whom the privilege of building the bridge and taking tolls thereon was granted by an Act of the Legislature of Lower Canada, 6 Geo. IV, Chap. 29, praying for the disallowance

of this Act, on the ground that it is an invasion of the right and a dispossession of the property secured to Mr. Jones by a solemn contract of the Legislature of Lower Canada, for the purpose of transferring the same to a Municipal or Private Corporation, without any benefit or advantage to the public at large, and also that it deprives the petitioners of their property without providing that payment of the value thereof shall be first made, and takes away their recourse to the regular tribunals of the country.

The petition was communicated to the Lieutenant-Governor of Quebec for such observations as His Government might see fit to make thereon, and on the 23rd February last His Honor transmitted a Report of His Attorney-General on the subject, approved by Order of His Executive Council.

In reply to the objections urged on behalf of the Petitioners, the Attorney-General of Quebec refers to the Sections 3 and 8, of 6 Geo. IV, Cap. 29, which provide for the assumption of the bridge by the Crown, after the expiration of fifty years, on payment of the value thereof, whereupon the bridge shall vest in the Crown, and points out that such right of the Crown in made subject to no other conditions.

With respect to the contemplated transfer by the Quebec Government of the bridge to a municipal or private corporation, it is contended that the parties have no interest in objecting to such a course, which, as a matter of fact, is in the public interest, and is adopted with a view to reducing the tolls.

As regards the question of compensation, it is denied on behalf of the Quebec Government that the Act provides for the taking possession of the bridge by the Government, upon paying the value thereof to the owners, and it is alleged that the matter was referred to arbitration under the law of the Province governing arbitrations.

The undersigned, upon consideration of the whole matter, can see no reason for advising the disallowance of the Act. Its subject matter is one peculiarly and exclusively within the competence of the Provincial Legislature, and the grievance disclosed by the petition is, in the opinion of the undersigned, sufficiently met by the answer of the Government of Quebec.

The Quebec Government appear to have acted in the exercise of an undoubted right and in the public interest, and proceedings have been commenced for the purpose of establishing the value of the petitioner's rights, in which they apparently have acquiesced, by naming one of the arbitrators.

The undersigned humbly advises that the power of disallowance be not exercised with respect to this Act.

Cap. 87. An Act to further amend the Act 27 Vic., Cap. 23, and the Act 39 Vic., Cap. 47, in order to modify and better define the general powers of the Corporation of the Town of Joliette, and for other purposes.

Section 15, Sub-sections 4, 5, 6 and 7, and Sections 16 and 17, are as follows:—

4. It shall be lawful for any constable, when on duty, to arrest all idle and disorderly persons whom he may find disturbing the public peace or whom he may have good reasons to suspect of any evil design, and any person whom he may find lying in any field, road, street, yard or other places, or loitering therein, and not giving a satisfactory account of himself, to deliver such persons so arrested into the custody of the officer or constable appointed under this Act, and who shall be on duty or in charge of the Police station or guard house established for that purpose by the said Council, in order that such person be kept in safe custody until he can be brought before the Mayor, pro-Mayor, one of the Councillors of the said town or before a Justice of the Peace, to be dealt with according to law.

5. In addition to the powers and authority conferred by the preceding sub-sections upon the said constabulary force, it shall and may be lawful for any officer or constable of the said force, by day or by night, to arrest on view any person infringing any of the by-laws of the said Town of Joliette, or of the Council thereof, the infringement of which is punishable, and it may and shall be lawful also for each such officer or constable to arrest every such person infringing any such by-laws, immediately, or after the offence has been committed, upon sufficient information

being given to him as to the nature of the offence and to the persons who have committed it.

6. All persons so summarily arrested may be at once conveyed to the Court House of the District of Joliette, or to any other place which the Council may be pleased to indicate by by-law, to stand their trial before the said Mayor, pro-mayor, or justice of the peace who may be present, or in order that they may give bail or recognizance before the said Mayor, pro-Mayor or Justice of the Peace, to appear on the day fixed by the said Mayor, pro-Mayor, or Justice of the Peace to answer to the charge or complaint brought against them and for which they may have been arrested as aforesaid.

7. In every such recognizance so taken, the parties thereto shall bind themselves equally for the same amount, and it shall be subject to the same procedure as to the forfeiture thereof, before the said Mayor, pro-Mayor or Justice of the Peace, as a recognizance taken before a Justice of the Peace and forfeited before the Court of General Sessions of the Peace for the District of Joliette; provided that nothing herein contained shall prevent the persons so summarily arrested from being examined and tried at once when they are brought to the Court House, or other place fixed by the said Council as aforesaid, before the said Mayor, pro-Mayor or Justice of the Peace, if the offence for which such persons have been arrested, can be legally brought before such Mayor, pro-Mayor or Justice of the Peace.

16. And if the party does not appear but applies, by any person in his name, to postpone the hearing of the charges against him, and if the Mayor, pro-Mayor or Justice of the Peace think proper to consent thereto, the said Mayor, pro-Mayor or Justice of the Peace shall be at liberty to continue such recognizance until a later period which he shall specify, and when the affair is heard and decided, either by the charge being dismissed, or the party being called upon to answer to the said charge later on, the recognizance, for the appearance of the said party before the Mayor, pro-Mayor or Justice of the Peace, shall be cancelled.

17. If any person assaults or resists, or aids or incites another person to assault or resist an officer or constable, appointed in virtue of this Act in the execution of his duty, such delinquent shall, upon conviction before the Mayor, pro-Mayor or Justice of the Peace, incur and pay for each such offence, a fine not exceeding twenty dollars or be liable to an imprisonment of not more than thirty days.

Similar provisions are made by Section 56, Sub-section 4 and Sections 65 and 66 of Cap. 90, intituled: "An Act to incorporate the Town of Sainte Cunégonde."

These provisions, in the opinion of the undersigned, trench upon the power of Parliament to legislate with respect to criminal law, and while recommending that the power of disallowance be not exercised in respect of these Acts, he recommends that the attention of the Lieutenant-Governor of the Province be called thereto.

(Signed) A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Cap. 1. An Act granting to Her Majesty the moneys required for the expenses of the Government, for the financial year ending on the 30th June 1885, and for other purposes connected with the Public Service.

Cap. 2. An Act respecting the Act for securing the independence of the Legislature of this Province.

Cap. 3. An Act to appoint as Commissioners the Members of certain Select Committees of the Legislative Assembly.

Cap. 4. An Act respecting the Library of the Legislature.

Cap. 5. An Act to amend the Act 42-43 Victoria, Chapter 6, respecting the security to be given by Public Officers in this Province.

Cap. 6. An Act to amend the Acts respecting the Department of Agriculture and Public Works.

Cap. 7. An Act to amend the laws concerning the constitution of the Superior Court in this Province.

Cap. 8. An Act to amend the Acts respecting the holding of the Superior and Circuit Courts and the Code of Civil Procedure.

Cap. 9. An Act respecting the Judges of the Sessions of the Peace of Montreal and Quebec.

Cap. 10. An Act to amend Chapter 94 of the Consolidated Statutes for Lower Canada.

Cap. 11. An Act to amend the Act respecting Jurors and Juries (46 Victoria, Chapter 16).

Cap. 12. An Act to amend the Act of this Province 43-44 Victoria, Chapter, 10, respecting Coroners' inquests.

Cap. 13. An Act to render valid certain registrations and to amend certain articles of the Civil Code.

Cap. 14. An Act respecting Notifications, Protests and Services.

Cap. 15. An Act to amend the Act 44-45 Victoria, Chapter 16, to extend the delay for registering the customary dowers and servitudes mentioned therein.

Cap. 16. An Act to amend Article 664 of the Code of Civil Procedure.

Cap. 17. An Act to amend Article 671 of the Code of Civil Procedure.

Cap. 18. An Act to amend the Municipal Code of the Province of Quebec.

Cap. 19. An Act to amend Chapter 25 of the Consolidated Statutes for Lower Canada.

Cap. 20. An Act respecting Lunatic Asylums subsidized by the Province of Quebec.

Cap. 21. An Act to amend the Act 33 Victoria, Chapter 26, intituled: "An Act to provide for the interdiction and cure of habitual Drunkards."

Cap. 22. An Act to further amend the Quebec General Mining Act of 1880.

Cap. 23. An Act to amend the Act 32 Victoria, Chapter 17, concerning Industrial Schools.

Cap. 24. An Act to amend the Acts respecting Reformatory Schools.

Cap. 25. An Act to amend and consolidate the Game Laws of the Province of Quebec.

Cap. 26. An Act respecting the subsidy granted to the Beet Sugar Company of the Province of Quebec, and for the promotion of the manufacture of Beet Sugar in this Province.

Cap. 27. An Act to amend the Act of this Province, 46 Victoria, Chapter 9, respecting the management of public lands adjoining non-navigable streams, and the exercise of the fishing rights thereto pertaining.

Cap. 28. An Act to repeal Section 12 of Chapter 22, of the Consolidated Statutes for Lower Canada, respecting good order in and near places of public worship.

Cap. 29. An Act to amend the Act of this Province, 46 Victoria, Chapter 21, intituled: "An Act to amend the law respecting public instructions, in so far as regards the Town of Richmond."

Cap. 30. An Act respecting the School Commissioners of Hochelaga.

Cap. 31. An Act to provide for the better support of the School under the control of the Protestant Board of School Commissioners of the City of Quebec.

Cap. 32. An Act to amend the Act 44-45 Victoria, Chapter 27, intituled: "An Act respecting the Bar of the Province of Quebec."

Cap. 33. An Act to render valid certain Notarial Deeds.

Cap. 34. An Act to amend the Act 46 Victoria, Chapter 34, intituled: "An Act to amend and consolidate the law respecting the Dental Association of the Province of Quebec."

Cap. 35. An Act to annex Lot No. 1,698 of the Official Plan and Book of Reference of the Municipality of the late Parish of Montreal to the Municipality of Notre Dame de Grâce, West.

Cap. 36. An Act to modify the Official Plans and Books of Reference thereto of the Town of Fraserville, the Parish of St. Patrick de la Rivière du Loup, the Township of Hull, and the Village of St. Sauveur, near Quebec.

Cap. 37. An Act to erect the Parish of St. Joachim de Shefford into a Municipality for Municipal and School purposes.

Cap. 38. An Act to amend an Act of this Session, intituled : " An Act to erect the Parish of St. Joachim de Shefford into a Municipality for Municipal and School purposes.

Cap. 39. An Act to detach a certain portion of the Township of Tingwick, in the County of Arthabaska, and to annex it to the Municipality of the Township of West Chester for Municipal and School purposes.

Cap. 40. An Act to detach certain parts of the augmentation of the Township of Caxton, from the Parish of St. Barnabé, and to annex them to the Parish of Ste. Anne d'Yamachiche, in the County of St. Maurice for all purposes whatsoever.

Cap. 41. An Act to remove certain doubts respecting the Act 44-45 Victoria, Chapter 32, respecting the annexation to the Municipality of the united Townships of Stoneham and Tewkesbury, of a certain part of the Parish of St. Edmond de Stoneham.

Cap. 42. An Act to erect into a Municipality the Parish of St. Maxime du Mont Louis, with other adjacent posts and the Township of Denoue, all in the County of Gaspé, and for other purposes.

Cap. 43. An Act to civilly erect the Parish of Ste. Emelie de l'Energie, and also to constitute such Parish a distinct and separate Municipality.

Cap. 44. An Act to ratify and confirm a deed of division (*partage*) and settlement of properties made between the School Commissioners of the Municipality of the Village of Waterloo, in the County of Shefford, and the Trustees of the dissentient minority in the said Village of Waterloo.

Cap. 45. An Act to authorize the Incumbent and Churchwardens of the Church of St. John the Evangelist, Montreal, to borrow money, and to hypothecate the Church site and buildings thereon.

Cap. 46. An Act to authorize " the Rector and Churchwardens of St. Jude's Church of the Parish of St. Jude, in the Diocese of Montreal," to borrow money and hypothecate the Church property.

Cap. 47. An Act to amend the Act 35 Victoria, Chapter 35, establishing exceptional and special arrangements in the Parish of St. Hyacinthe-le-Confesseur, for the construction of a Parish Church, to become the Cathedral of the Bishop of St. Hyacinthe.

Cap. 48. An Act to define the meaning of a certain donation made to the Clercs of St. Viateur by the Honorable Barthelemi Joliette and his wife.

Cap. 49. An Act to allow the Congregational College of British North America to confer degrees in Divinity and to amend the Act 27-28 Victoria, Chapter 162.

Cap. 50. An Act respecting the Union of certain Methodist Churches therein named.

Cap. 51. An Act to incorporate the Missionnaires de la Compagnie de Marie.

Cap. 52. An Act to incorporate the "La Maison de l'Immaculée Conception de Montréal."

Cap. 53. An Act to consolidate and amend the Act relating to " Les Sœurs de l'Asile de la Providence de Montréal.

Cap. 54. An Act to incorporate the Montreal Butchers Provident and Mutual Benefit Association.

Cap. 55. An Act to incorporate the Royal Electric Company.

Cap. 56. An Act to incorporate " The Sanitary Association of the Province of Quebec."

Cap. 57. An Act to incorporate the Licensed Victuallers Association of Montreal.

Cap. 58. An Act to incorporate " The Lévis Maritime and Industrial Company."

Cap. 59. An Act to incorporate " La Société Union Saint-Joseph des Artisans de Sherbrooke."

Cap. 60. An Act to incorporate the Du Lièvre and Ottawa Rivers Transportation and Mining Company.

Cap. 61. An Act to amend the Act 18 Victoria, Chapter 61, of the Statutes of the Parliament of the late Province of Canada.

Cap. 62. An Act to further amend the Charter of the Crédit Foncier Franco-Canadien.

Cap. 63. An Act to reduce the Capital Stock of the Montreal Loan and Mortgage Company.

Cap. 64 An Act to amend the Act 27-28 Victoria, Chapter 70, intituled: An Act to enable the proprietors of the Islands Du Moine and Des Barques to make regulations for the better government of the said Islands.

Cap. 65. An Act to ratify and confirm certain resolutions of the Shareholders of the Montreal Cotton Company.

Cap. 66. An Act to ratify Debentures issued by "La Compagnie de Filature Ste. Anne, Hochelaga" and to empower the Directors of the said Company to grant hypothecs on immovable property.

Cap. 67. An Act to amend the Act 46 Victoria, Chapter 74, incorporating "La Compagnie de l'Hotel Château St. Louis."

Cap. 68. An Act to enable the Coaticook Knitting Company to issue First Mortgage Debentures and to confirm a By-law of the Company to that effect.

Cap. 69. An Act to abolish the preferential shares of the Capital Stock of the Paton Manufacturing Company issued under the authority of the Act of this Province, 39 Victoria, Chapter 67, and to repeal the said Act.

Cap. 70. An Act respecting Railway Subsidies and the guarantee of interest by the Province of Quebec.

Cap. 71. An Act further to amend the Act of this Province, 43-44 Victoria, Chapter 50, intituled: "An Act to incorporate the Jacques Cartier Union Railway Company."

Cap. 72. An Act to amend the Act incorporating the Leeds and Eastern Townships Railway Company.

Cap. 73. An Act concerning Joint Stock Companies, and for the protection of investors.

Cap. 74. An Act to further amend the Act of the late Province of Canada, 24 Victoria, Chap. 32, respecting Mutual Insurance Companies.

Cap. 75. An Act to further amend the Act of the late Province of Canada, 24 Victoria, Chapter, 32, respecting Mutual Insurance Companies.

Cap. 76. An Act to further amend the Act of this Province, 45 Victoria, Chapter 51, intituled: "An Act respecting Mutual Fire Insurance Companies."

Cap. 78. An Act to incorporate "The St. Leonard Bridge Company" and to authorize it to levy tolls on a bridge which it has constructed on the Nicolet River, near the Village of the Parish of St. Leonard, in the County of Nicolet.

Cap. 79. An Act to amend an Act of the present Session, intituled: "An Act to incorporate the St. Leonard Bridge Company" and to authorize it to levy tolls on a Bridge which it has constructed on the Nicolet River, near the Village of the Parish of St. Leonard, in the County of Nicolet.

Cap. 80. An Act to authorize Joseph Morissette, of the Parish of Ste. Marie, in the County of Beauce, to construct a toll-bridge over the River Chaudière.

Cap. 81. An Act respecting the Quebec Turnpike Roads.

Cap. 82. An Act to amend the Ordinance, 4 Victoria, Chapter 17, intituled: "An Ordinance to provide for the improvement of certain Roads in the neighborhood of, and leading to, the City of Quebec, and to raise a fund for that purpose" and the various Acts amending the same.

Cap. 83. An Act respecting winter vehicles in certain Counties.

Cap. 84. An Act to amend the Act 39 Victoria, Chapter 50, incorporating the City of Sherbrooke, as heretofore amended by the Act 40 Victoria, Chapter 26, and the Act 42-43 Victoria, Chapter 60.

Cap. 85. An Act to amend the Act 23 Victoria, Chapter 75 and the various Acts amending the same and containing provisions relative to the Corporation of the Town of Sorel.

Cap. 86. An Act to amend the Act 38 Victoria, Chapter 77, intituled: "An Act to amend the Act 27 Victoria, Chapter 24, intituled: "An Act to erect the Village of Beauharnois as a Town."

Cap. 88. An Act to amend certain Acts respecting the incorporation of the Town of Berthier, and to grant it additional powers.

Cap. 89. An Act to incorporate the Town of St. Jean Baptiste.

Cap. 91. An Act to authorize the sale of certain immovables belonging to the Estate of the Late Jean-Baptiste Renaud.

Cap. 92. An Act to authorize Dame J. Thérèse LaRocque and her husband, J. Aldéric Ouimet, Esquire, to sell or otherwise dispose of certain substituted property.

Cap. 93. An Act to authorize Achille Leduc, the institute under the will of his mother, the late Dame Marguerite Bourgeois, to dispose of the substituted immovables.

Cap. 94. An Act to amend the Act of this Province, 44-45 Victoria, Chapter 89, by substituting the name of David Lamontagne, of the Parish of Ste Marie, for that of François Gosselin, and for other purposes.

Cap. 95. An Act to authorize the Bar of the Province of Quebec to admit Philias A. Corriveau amongst its Members after examination.

Cap. 96. An Act to authorize the Bar of the Province of Quebec to admit Cyrille Hector Andgrave *alias* Handgrave dit Champagne, to the profession of Attorney and Advocate.

Cap. 97. An Act to authorize the Pharmaceutical Association of the Province of Quebec to admit Frederick T. Ansell to practice as a Chemist and Druggist in this Province.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor-General in Council on the 8th July*, 1885.

The Committee of the Privy Council have had before them a Report dated 10th June, 1885, from the Minister of Justice with respect to the Acts passed by the Legislature of the Province of Quebec in the Session thereof held in the year 1884, being the 47th year of Her Majesty's reign.

The Committee, on the recommendation of the Minister of Justice, advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters 1 to 97 inclusive, and they further advise that the attention of the Lieutenant-Governor of Quebec be called the Report of the Minister of Justice as respects Chapters 77, 87 and 90.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

NOVA SCOTIA, 31st VICTORIA, 1868.

1st Session—24th General Assembly.

Report of the Hon. the Minister of Justice.

Department of Justice, Ottawa, 19th February, 1869.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June, 1868, on the memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of Nova Scotia, in the first Session thereof, to be free from objection of any kind. He therefore recommends that the same be respectively left to their operation.

With respect to Chapter 11, intituled: "An Act to amend Chapter 72 of the Revised Statutes of Commissioners of Sewers, and the regulating of Dyked and Marsh Lands," he recommends that it also be left to its operation.

It may be doubted, however, whether this Act, as it gives to the Commissioners appointed under its powers to be exercised as well *beyond* as *within* the boundaries of Nova Scotia, is not out of the jurisdiction of the Provincial Legislature.

If the Government of Nova Scotia should entertain the same doubt, or should the question as to the validity of the Act be raised, an Act of the Parliament of the Dominion could readily be obtained confirming it.

The Statutes, Chapters 2, 4, 18, 21 and 37, will be the subject of a further Report, as they are still under consideration.

(Signed) JOHN A. MACDONALD.

Schedule *referred to in the annexed Report of the Minister of Justice, dated 19th February*, 1869.

31 Vic., Cap. 1.—An Act to amend Cap. 25 of the Revised Statutes "Of Mines and Minerals."

31 Vic., Cap. 5.—An Act to alter and amend Cap. 123 of the Revised Statutes, third series, "Of the Supreme Court and its officers."

31 Vic., Cap. 6.—An Act to amend Cap. 123 of the Revised Statutes, "Of the Supreme Court and its Officers."

31. Vic., Cap. 7.—An Act to amend Cap. 23 of the Acts of 1863, intituled: "An Act to regulate the election of Members to serve in the General Assembly."

31 Vic., Cap. 8.—To amend Cap. 19 of the Revised Statutes, "Of Licenses for the sale of intoxicating liquors."

31 Vic., Cap. 9.—An Act further to amend the Act for the better encouragement of education.

31 Vic., Cap. 10.—An Act to amend Cap. 85 of the Revised Statutes, "Of the regulation and inspection of provisions, lumber, fuel and other merchandise."

31 Vic., Cap. 12.—An Act respecting Animals going at large.

31 Vic., Cap. 13.—An Act to amend Cap. 47 of the Revised Statutes, "Of Townships, certain County and Township Officers."

31 Vic., Cap. 14.—An Act to amend Cap. 45 of the Revised Statutes, "Of County Assessments," so far as relates to the County of Halifax.

31 Vic., Cap. 15.—An Act to provide for defraying certain expenses of the Civil Government of this Province.

31 Vic., Cap. 16.—An Act to authorize the Fire Wards of the Town of Pictou to borrow money for a supply of water.

31 Vic., Cap. 17.—An Act to enable the Presbyterian Congregation of St. James', in Dartmouth, to sell their real estate.

31 Vic., Cap. 19.—An Act to legalize the proceedings of the Sessions of the County of Digby.

31 Vic., Cap. 20.—An Act to change the name of Back Settlement, Tracadie, in the County of Antigonish.

31 Vic., Cap. 22.—An Act to legalize the Revisors' Lists of Electors for the Counties of Yarmouth and Inverness.

31 Vic., Cap. 23.—An Act to legalize Assessment Rolls for certain Counties and Districts.

31 Vic., Cap. 24.—An Act to assess the Windsor and Annapolis Railway Company for Dyke Rates.

31 Vic., Cap. 25.—An Act to amend the Acts to regulate the Poor's Asylum and Hospital in the City of Halifax.

31 Vic., Cap. 26.—An Act to amend the Act to regulate the Poor's Asylum and Hospital in the City of Halifax.

31 Vic., Cap. 28.—An Act to enable the inhabitants of the Town of Sydney in Cape Breton to procure a Fire-engine.

31 Vic., Cap. 29.—An Act for extending to the Sydney Mines in the County of Cape Breton, the jurisdiction of Commissioners of Streets.

31 Vic., Cap. 30.—An Act to provide for opening of a Road in the County of Pictou.

31 Vic., Cap. 31.—An Act to amend the several Acts relating to the Dartmouth Common.

31 Vic., Cap. 32.—An Act to appoint Commissioners to appraise damages for Railway property in the County of King's.

31 Vic., Cap. 33.—An Act to appoint Commissioners to appraise damages for Railway property in the County of Annapolis.

31 Vic., Cap. 34.—An Act to amend the Act to incorporate the Windsor and Annapolis Railway Company, so far as relates to King's County.

31 Vic., Cap. 35.—An Act to incorporate the Hants County Temperance League.

31 Vic., Cap. 36.—An Act to incorporate the Albion Lodge of British Templars, Horton.

31 Vic., Cap. 38.—An Act to authorize and empower the Roman Catholic Episcopal Corporation of the City and County of Halifax, to sell or mortgage certain lands.

31 Vic., Cap. 39.—An Act to incorporate the King's County Medical Society.

31 Vic., Cap. 40.—An Act to incorporate the Presbyterian Church at St. Peter's.

31 Vic., Cap. 41.—An Act to amend the Act to incorporate the Trustees of the Zion Church in Halifax.

31 Vic., Cap. 42.—An Act to incorporate the Trustees of Trinity Church, in Halifax, in connection with the Church of England.

31 Vic., Cap. 43.—An Act to incorporate Union Temple of Good Templars, Williamsdale.

31 Vic., Cap. 44.—An Act to incorporate the Sydney Mines Industrial and Provident Society.

31 Vic., Cap. 45.—An Act to incorporate the Society of St. Vincent of Paul, of Halifax.

31 Vic., Cap. 46.—An Act to incorporate the Halifax Sabbath School Association.

31 Vic., Cap. 47.—An Act to incorporate the Board of Managers of the French Mission of the Western Baptist Association of Nova Scotia.

31 Vic., Cap. 48.—An Act to incorporate St. Andrew's Lodge of Freemasons, Sydney, Cape Breton.

31 Vic., Cap. 49.—An Act to incorporate the Crown Coal, Brick and Potters' Company.

31 Vic., Cap. 50.—An Act to incorporate the Intercolonial Iron and Steel Company (limited).

31 Vic., Cap. 51.—An Act to incorporate the Starr Manufacturing Company (limited).

31 Vic., Cap. 52.—An Act to amend the Act to incorporate the North Sydney Railway Company.

31 Vic., Cap. 53.—An Act to incorporate the Glasgow and Cape Breton Railway Company.

31 Vic., Cap. 54.—An Act to amend the Act to incorporate the Provincial Gold Mining Company.

31 Vic., Cap. 55.—An Act to amend the Act to incorporate the Dominion Gold Mining Company.

31 Vic., Cap. 56.—An Act to amend the Act to incorporate the Blue Lead Gold Mining Company,

31 Vic., Cap. 57.—An Act to amend the Act to incorporate the Mira Bay Harbor Company.

31 Vic., Cap. 58.—An Act to amend the Act to incorporate the Block House Mining Company.

31 Vic., Cap. 59.—An Act to amend the Act to incorporate the Pictou Mining Company.

31 Vic , Cap. 60.—An Act to incorporate the Casco Bay Copper Mining Company.

31 Vic., Cap. 61.—An Act to incorporate Low Point Coal Mining Company.

31 Vic., Cap. 62.—An Act to incorporate the Victoria Coal Mining Company.

31 Vic., Cap. 63.—An Act to incorporate the Gardiner Coal Mining Company.

31 Vic., Cap. 64.—An Act to incorporate the Montreal and New Glasgow Coal Mining Company.

31 Vic., Cap. 65.—An Act to incorporate the Scotia Coal Company.

31 Vic., Cap. 66.—An Act to incorporate the North American Mining Company.

31 Vic., Cap. 67.—An Act to incorporate the Montreal Gold Mining Association.

31 Vic., Cap. 68.—An Act to incorporate the North St. Lawrence and Mount Uniacke Gold Company.

31 Vic., Cap. 69.—An Act to incorporate the Stanley Gold Company.

31 Vic., Cap. 70.—An Act to incorporate the Chicago Gold Mining Company of Nova Scotia.

31 Vic., Cap. 71.—An Act to incorporate the Delta Gold Mining Company of Nova Scotia.

31 Vic., Cap. 72.—An Act to incorporate the Crescent Gold Mining Company of Nova Scotia.

31 Vic., Cap. 73.—An Act to incorporate the Royal Gold Mining Company of Nova Scotia.

31 Vic., Cap. 74.—An Act to incorporate the Alpha Gold Mining Company of Mount Uniacke, Nova Scotia.

31 Vic., Cap. 75.—An Act to incorporate the Canada Gold Mining Company of Nova Scotia.

31 Vic., Cap. 76.—An Act to incorporate the Ontario Gold Mining Company of Nova Scotia.

31 Vic., Cap. 77.—An Act to incorporate the Eureka Gold Mining Company of Nova Scotia.

31 Vic., Cap. 78—An Act to incorporate the Meridian Gold Mining Company of Nova Scotia.

31 Vic., Cap. 79.—An Act to incorporate the Kingston and Sherbrooke Gold Mining Company.

31 Vic., Cap. 80.—An Act to incorporate the Wentworth Gold Mining Company of Nova Scotia.

31 Vic., Cap. 81.—An Act to incorporate the Westlake Company.

31 Vic., Cap. 82.—An Act to incorporate the Orient Gold Mining Company.

31 Vic., Cap. 83.—An Act to incorporate the Prince of Wales Gold Mining Company.

31 Vic., Cap. 84.—An Act to incorporate the Imperial Gold Company.

31 Vic., Cap. 85.—An Act to incorporate the Uniacke Union Gold Mining Company.

31 Vic, Cap. 86.—An Act to incorporate the Strawberry Hill Gold Mining Company.

31 Vic., Cap. 87.—An Act to incorporate the Hayden and Derby Mining Company.

31 Vic., Cap. 88.—An Act to incorporate the Gladstone Mining Company.

31 Vic., Cap. 89.—An Act to incorporate the Colonial Gold Mining Company.

31 Vic., Cap. 90.—An Act to incorporate the Peterboro' Gold Mining Company of Nova Scotia.

31 Vic., Cap. 91.—An Act to incorporate the Carnarvon Gold Mining Company.

31 Vic., Cap. 92.—An Act to incorporate the Woodbine Gold Mining Company.

31 Vic., Cap. 93.—An Act to incorporate the Montreal Exploration Company.

31 Vic., Cap. 94.—An Act to incorporate the Caledonian Gold Mining Company.

31 Vic., Cap. 95.—An Act to incorporate the Glace Bay Gold Mining Company.

31 Vic, Cap. 96.—An Act to incorporate the Mayflower Gold Mining Company of Windsor.

31 Vic., Cap. 97.—An Act to incorporate the Mulgrave Gold Mining Company.

31 Vic., Cap. 98.—An Act to incorporate the Macintosh Gold Mining Company.

31 Vic., Cap. 99.—An Act to incorporate the Atlantic Gold Mining Company.

31 Vic., Cap. 100.—An Act to amend Cap. 70 of the Revised Statutes of Railroads.

31 Vic., Cap. 11.—An Act to amend Cap. 72 of the Revised Statutes "of Commissioners of Sewers," and the regulating of Dyked and Marsh Lands."

31 Vic., Cap. 27.—An Act to alter the sittings of the Courts of Sessions in West and East Hants in the present year.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General on the 22nd February*, 1869.

The Committee have had under consideration the annexed Report of the Honorable the Minister of Justice, and the Schedule thereunto appended, of certain Acts passed by the Legislature of the Province of Nova Scotia, in the first Session thereof; and they respectfully recommend that the said Report be approved, and that a Copy thereof, and of the Schedule, be communicated to the Government of Nova Scotia, by the Secretary of State for the Provinces.

Certified.

(Signed) W. A. HIMSWORTH,
Assistant Clerk Privy Council.

Secretary of State to Lieutenant-Governor Nova Scotia.

OFFICE OF SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 26th April, 1869.

SIR,—I have the honor, by command of His Excellency the Governor General, to transmit, herewith for the information of the Government of the Province of Nova Scotia, a copy of a Report (approved by his Excellency in Council) of the Minister of Justice, in reference to certain Acts passed by the Legislature of that Province, in the first Session thereof, together with a copy of the Schedule referred to in the Report.

I have, &c.,

(Signed) HECTOR L. LANGEVIN,
Secretary of State.

Major-General Sir HASTINGS DOYLE, K.C.M.G.,
Lieutenant-Governor, Halifax.

Memo. in re Militia Bill.

On a Despatch of the Lieutenant-Governor of Nova Scotia, dated the 22nd September, 1868, stating that he had assented to certain Bills of the Legislature of Nova Scotia, and transmitting a copy of a "Bill relating to the Militia," which had been reserved for the assent of His Excellency the Governor General, the Minister of Justice reported as follows :—

"In this case it is quite clear that the Legislature of Nova Scotia had no authority or right to pass the Militia Bill within mentioned. Had it passed, I would have recommended its disallowance."

Having been reserved for the assent of the Governor General, it is of course no Statute until such assent is given. If there be no assent within a year after its final passage through the Legislature, it falls to the ground of itself, and cannot afterwards be assented to.

Under present circumstances I advise that there be no formal refusal, but that the Bill be allowed to lapse at the end of the year, 21st September 1869, without remark.

(Signed) JOHN A. MACDONALD.

NOTE.—The Bill is as follows :—"An Act to amend Chapter 16 of the Acts of 1865, intituled : "An Act in reference to the Militia.' "

Be it enacted by the Governor in Council and Assembly as follows :—

1. It shall not be lawful to march or move the Militia of Nova Scotia beyond the limits of the Province, without the approval and consent of the Governor and Council of the Province aforesaid.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 12TH AUGUST, 1869.

With respect to the following Acts passed by the Legislature of Nova Scotia, at its first Session (31st Victoria), the undersigned has the honor to report as follows :—

31 Vic., Chap. 2.—"An Act to amend Chapter 120 of the Revised Statutes of the solemnization of Marriage, and the registration of Marriages, Births, and Deaths, and the Act in amendment thereof."

This Act amends the 5th Section of Chap. 28 of the Acts of 1866, and provides that the Licenses mentioned in such section shall not be deposited with the Chairman of the Board of Statutes for distribution, but that the same shall be distributed by the Provincial Secretary.

The undersigned is of opinion that this Act is objectionable, as the power of issuing Marriage Licenses is, in his opinion, vested in the Governor General as ordinary, and under the power given him in his Commission.

As this is a question however which may affect the validity of marriages, it must be decided authoritatively, and it is proposed that it should be submitted to the Secretary of State for the Colonies for the purpose of obtaining the opinion of Her Majesty's Law Officers thereon. Meanwhile, as the Act in question does not allow the previous law, except as to the person who shall distribute licenses, the undersigned does not recommend its disallowance, but suggests that the attention of the Government of Nova Scotia be called to the subject.

Chap. 4, intituled: "An Act to amend Chap. 137 of the Revised Statutes (of the Relief of Insolvent Debtors)."

The law of Bankruptcy and Insolvency is to be dealt with under the "B. N. A. Act, 1867," by the Parliament of the Dominion of Canada, and therefore the Act in question would seem to be *ultra vires*. As, however, the Act now amended, may be considered more as an Act for the relief of indigent debtors, than a law of Insolvency, and as its main object is to establish a remuneration for the Commissioners, the undersigned recommends that it be left to its operation, but that the attention of the Government of Nova Scotia be called to it.

A measure of a similar nature was passed in the Session of 1868 by the Legislature of New Brunswick, and the Court there has declared the Act to be unconstitutional. Probably, if the question arises in the Courts of Nova Scotia, the same decision will be arrived at.

Chapter 18, intituled: "An Act to amend the Act for the appointment of a Stipendiary Magistrate and Police Constable in the Town of Pictou."

The second clause of the Act is objectionable. The clause is as follows:

"On the trial of all larcenies there shall be on the Bench at least three Justices of the Peace, including the Stipendiary Justices, and a Jury of three disinterested persons shall be sworn to try the prisoner if required by him."

The provision as to a Jury of three disinterested persons is one connected with Criminal Procedure. By the 27th paragraph of the 91st Clause of the "B. N. A. Act, 1867," it is provided that the Parliament of Canada shall deal with Criminal Law, except the constitution of the Courts of Criminal Jurisdiction, but including the procedure in criminal matters.

The undersigned recommends that the attention of the Government of Nova Scotia be called to this clause in order to its repeal next Session. (*This Act amended by repealing the second section thereof. See Statutes, N. S., 33rd Vic., Chap. 42.*)

It is suggested that it would be well for the Government of Nova Scotia meanwhile to call upon the Magistracy not to act under that clause, as otherwise, on objection being taken, criminals may be discharged and a failure of justice ensue.

Chap. 21, intituled: "An Act to empower the Police Court in the City of Halifax to sentence Juvenile Offenders to the Halifax Industrial School."

This Act is objectionable inasmuch as it deals with Criminal Law, which appertains to the Parliament of the Dominion. It is so clearly *ultra vires* as it deals with criminal convictions, sentences and imprisonments, not only in the Industrial School mentioned in the Act but also by the 5th clause, in the City prison, that the undersigned recommends that it be disallowed. *For Proclamation of Governor General's disallowance of this Act, see Canada Gazette of the 20th August*, 1869.

Chap. 37, intituled: "An Act to amend the Act to incorporate the 'Union Marine Insurance Company of Nova Scotia.'"

After full consideration the undersigned respectfully recommends that this Act be left to its operation.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th of August,* 1869.

The Committee have had under consideration the annexed Memorandum, dated 11th August, 1869, from the Honorable the Minister of Justice, reporting on certain Acts passed by the Legislature of the Province of Nova Scotia, at its first Session (31st Victoria).

The Minister of Justice recommends that the several Acts enumerated in his said annexed Report be dealt with in the manner suggested by him therein.

The Committee advise that the foregoing recommendation be approved and adopted.

Certified.

(Signed) W. A. HIMSWORTH,
Assistant Clerk Privy Council.

Proclamation disallowing Chapter 21.

GOVERNMENT HOUSE, OTTAWA, Friday, 20th day of August, 1869.

PRESENT:

His Excellency the Governor General,

The Honorable Sir John A. Macdonald,
" Mr. McDougall,
" Mr. Chapais,
The Honorable Mr. Rose,
" Mr. Howe.

IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Nova Scotia, with the Legislative Council and Assembly of that Province, did, on the 21st day of September, A.D. 1868, pass an Act, which has been transmitted, intituled as follows, viz.:—

Chap. 21. "An Act to empower the Police Court, in the City of Halifax, to sentence juvenile offenders to the Halifax Industrial School;"

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that the change of the law proposed in the said Act cannot be legally affected by an Act of the Provincial Legislature, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has, thereupon, this day been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

I, John Young, Baronet, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Nova Scotia, on the 21st day of September, 1868, intituled: "An Act to empower the Police Court, in the City of Halifax, to sentence juvenile offenders to the Halifax Industrial School," was received by me on the thirtieth day of January, 1869.

Given under my hand and seal this twentieth day of August, 1869.

JOHN YOUNG.

Under Secretary of State to the Lieutenant-Governor of Nova Scotia.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,
OTTAWA, 15th September, 1869.

SIR,—I have the honor to enclose, herewith, for the information of the Govern-
20th August. ment of the Province of Nova Scotia, copy of an Order in Council, relative to certain Acts passed by the Legislature of the Province of Nova Scotia at its first Session.

I also transmit a copy of the Report of the Minister of Justice, referred to in the Order.

With reference to the date of the Order in Council, I may observe that the Department was not furnished with a Copy of the Order until yesterday.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary of State.

Major-General Sir HASTINGS DOYLE, K.C.M.G.,
Lieutenant-Governor, Halifax.

NOVA SCOTIA, 32ND VICTORIA, 1869.

2ND SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th November, 1869.

With reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June, 1868, on the Memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report, that, in his opinion, all the Acts passed by the Legislature of the Province of Nova Scotia, in the Second Session thereof (32nd Victoria) with the exception of Chapter eleven, "An Act to amend Cap. 75 of the Revised Statutes 'Of Shipping and Seamen,'" should be left to their operation, and he respectfully recommends accordingly.

The undersigned, while recommending that Chapter 12, intituled: "An Act in addition to Chap. 162 of the Revised Statutes, 'Of offences against the Public Peace,'" be left to its operation, feels it his duty to report that he has great doubt whether Sections 2 and 3 are not *ultra vires.*

The offences mentioned in those two clauses are *misdemeanors.* It would seem, therefore, that the Act relates to Criminal Law, which, by the 27th paragraph of

Section 91 of the "British North America Act, 1867," is subject, exclusively, to legislation of the Dominion Parliament.

He is also inclined to believe that Chapter 16, intituled: "An Act to amend Cap. 92 of the Revised Statutes of the preservation of useful Birds and Animals," and the Act in amendment thereof, is beyond the jurisdiction of the Provincial Legislature, as it affects trade and commerce.

By the second paragraph of the clause above cited, laws for the regulation of trade and commerce are to be dealt with by the Dominion Parliament.

The undersigned recommends that the attention of the Government of Nova Scotia be called to these two Acts, and their consideration of the objections taken to them invited.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November,* 1869.

The Committee of Council have had under consideration the annexed Memorandum, dated 4th November, 1869, from the Honorable the Minister of Justice, recommending that all the Acts passed by the Legislature of the Province of Nova Scotia, in the second Session thereof (32nd Victoria) with the exception of Chapter eleven, be left to their operation, and they respectfully advise that such Acts, with the exception of Chapter eleven, be left to their operation accordingly.

They further advise, that the attention of the Government of Nova Scotia be invited to consider the objections taken by the Minister of Justice, in his said Memorandum, to the provisions of the Acts, Chapters 12 and 16.

Certified.

WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th November, 1869.

With reference to the following Act passed by the Legislature of the Province of Nova Scotia at its second Session (32nd Victoria), the undersigned has the honor to report as follows:—

That Chapter 11, intituled: "An Act to amend Cap. 75 of the Revised Statutes of Shipping and Seamen," is objectionable; as any amendment of that Act can only be passed by the Parliament of the Dominion, which has, by the British North America Act, 1867, exclusive jurisdiction in all Legislation relating to Trade and Commerce, and Navigation and Shipping.

The attention of the Government of Nova Scotia, should be called to this Act; and they should at the same time be requested to state whether they would prefer repealing it at the next Session of their Legislature, or having it disallowed here. Should the latter course be adopted, the undersigned would recommend that an Act similar in its provisions to the one in question, be submitted to the Parliament of Canada at its next Session.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

NOTE.—The time within which this Act could be disallowed, expired without any disallowance.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November, 1869.*

On a Memorandum, dated 4th November, 1869, from the Honorable the Minister of Justice, reporting with reference to the following Act passed by the Legislature of the Province of Nova Scotia, at its second Session (32nd Victoria)—

That Chapter 11, intituled: "An Act to amend Cap. 75 of the Revised Statutes of Shipping and Seamen," is objectionable; as any amendment of that Act can only be passed by the Parliament of the Dominion, which has, by the "British North America Act, 1867," exclusive jurisdiction in all Legislation relating to Trade and Commerce and Navigation and Shipping.

That the attention of the Government of Nova Scotia should be called to this Act, and they should, at the same time, be requested to state whether they would prefer repealing it at the next Session of their Legislature, or having it disallowed here.

Should the latter course be adopted, he recommends that an Act, similar in its provisions to the one in question, be submitted to the Parliament of Canada at its next Session.

The Committee advise that the foregoing Report be approved and acted on.

Certified.

WM. H. LEE,
Clerk Privy Council.

NOVA SCOTIA, 33RD VICTORIA, 1870.

3RD SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd September, 1870.

The undersigned has the honor to report that after full consideration he is of opinion that the Act (Cap. 2) passed by the Legislature of the Province of Nova Scotia in the third Session thereof (33rd Victoria), intituled: "An Act to improve the administration of Justice," should be left to its operation, and he respectfully recommends accordingly.

The undersigned, however, thinks it necessary to call attention to the 8th clause of the Act, which legislates as to the discharge of Insolvent Debtors. This may perhaps infringe on the jurisdiction of the Dominion Parliament in matters of Insolvency. The objection, however, is not of sufficient importance to warrant the undersigned in recommending the disallowance of the Act.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 28th September,* 1870.

On a Memorandum dated 23rd September, 1870, from the Hon. the Minister of Justice, reporting that after full consideration he is of the opinion that the Act passed by the Legislature of the Province of Nova Scotia in the third Session thereof (33rd Victoria), intituled : "An Act to improve the administration of Justice" should be left to its operation.

The Minister states, however, that he thinks it necessary to call attention to the 8th clause of the Act, which legislates as to the discharge of Insolvent Debtors.

That this may, perhaps, infringe on the jurisdiction of the Dominion Parliament in matters of Insolvency, but that the objection is not of sufficient importance to warrant him recommending the disallowance of the Act.

The Committee advise that the Act be left to its operation as recommended.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th October, 1870.

With reference to the Imperial "British North America Act, 1867" and also to the Order in Council of the 9th June, 1868, on the Memorandum of the undersigned relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:—

That in his opinion all the Acts passed by the Legislature of the Province of Nova Scotia in the third Session thereof, 33rd Victoria (with the exception of those undermentioned, which will be the subject of a further Report), are free from objection of any kind. He therefore recommends that they same be left to their operation.

The following are the exceptions above alluded to :—

Chapter 6. "An Act to amend Chapter 103 of the Revised Statutes, 'Of the conveying of Timber and Lumber on Rivers, and the removal of obstructions therefrom.'"

Chapter 17. "An Act to amend Chapter 79 of the Revised Statutes, 'Of Pilotage, Harbors, and Harbor Masters.'"

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th October,* 1870.

On a Memorandum dated 19th October, 1870, from the Hon. the Minister of Justice, reporting with reference to the Imperial "British North America Act, 1867," and also to the Order in Council of the 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures. That in his opinion all the Acts passed by the Legislature of the Province of Nova Scotia in the third Session thereof, 33rd Victoria (with the exception of those undermentioned, which will be the subject of a further Report), are free from objection of any kind.

He therefore recommends that the same be left to their operation.

The following are the exceptions above alluded to:—

33 Vic., Chap. 6. "An Act to amend Chap. 103 of the Revised Statutes, 'Of the conveying of Timber and Lumber on Rivers, and the removal of obstructions therefrom.'"

33 Vic., Chap. 17. "An Act to amend Chap. 79 of the Revised Statutes, 'Of Pilotage, Harbors and Harbor Masters.'"

The Committee advise that the Acts referred to, with the exceptions mentioned, be left to their operation accordingly.

Certified. WM. H. LEE,
Clerk Privy Council.

Memo.—The Acts above mentioned, Chaps. 6 and 17, have been allowed to go into operation by efflux of time.

NOVA SCOTIA, 34TH VICTORIA, 1871.

4TH SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th October, 1871.

The undersigned, to whom were referred certified copies of the Acts passed by the Legislature of the Province of Nova Scotia in the fourth Session thereof, held in the thirty-fourth year of Her Majesty's reign, has the honor to report:

That the two undermentioned Acts have been reserved for further consideration and report, viz:—

Chap. 32. An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton.

Chap. 57. An Act to incorporate the Nova Scotia Mutual Fire Insurance Company.

That, with the exception of the two last mentioned, the said Acts are within the jurisdiction of the Provincial Legislature, and he begs respectfully to recommend that the same be left to their operation.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 19*th October*, 1871.

On a Memorandum, dated 17th October, 1871, from the Hon. the Minister of Justice, to whom was referred certified copies of the Acts passed by the Legislature of the Province of Nova Scotia in the fourth Session thereof, held in the 34th year of Her Majesty's reign, reporting :

That the two undermentioned Acts have been reserved for further consideration and report, viz:—

Chapter 32. "An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton."

Chapter 57. "An Act to incorporate the Nova Scotia Mutual Fire Insurance Company."

That, with the exception of the two last mentioned, the said Acts are within the jurisdiction of the Provincial Legislature, and he recommends that the same be left to their operation.

The Committee advise that, with the exception of the two Acts above mentioned, the Acts passed by the Legislature of the Province of Nova Scotia in the fourth Session thereof, held in the 34th year of Her Majesty's reign, be left to their operation.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th December, 1871.

Referring to his previous Report of the 17th October last, on the subject of the Acts passed by the Legislature of Nova Scotia at the last Session, the undersigned has the honor further to Report:—

That with reference to the Act, Chapter 32, intituled: "An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton," he is of opinion that the Provincial Legislature has no power to regulate the fees of Pilots, and that such can only be done by Act of the Dominion Government. He therefore recommends that this Act be disallowed. (*For Proclamation of disallowance of this Act, see "Canada Gazette" of* 23*rd December*, 1871.)

With respect to Chapter 57, intituled: "An Act to incorporate the Nova Scotia Mutual Fire Insurance Company," the undersigned is of opinion that the 14th section is unconstitutional, in so far as it declares that the President and Directors of the Company incorporated by the Act shall, for certain acts therein stated, be deemed guilty of misdemeanor.

This is a matter relating to the Criminal Law, which can only be dealt with by the Parliament of Canada. (*Amended by Cap.* 99, 35*th Victoria.*)

The attention of the Government of Nova Scotia should be called to this clause, so that it may be amended at the ensuing Session of the Legislature of that Province.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th December*, 1871.

On a Memorandum, dated 6th December, 1871, from the Hon. the Minister of Justice, having reference to his previous Report of the 17th October last, on the subject of the Acts passed by the Legislature of Nova Scotia at the last Session, and further reporting:

That as regards Act, Cap. 32, intituled: "An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton," he is of opinion that the Provincial Legislature has no power to regulate the fees of Pilots, and that such can only be done by the Act of the Dominion Parliament, and he, therefore, recommends that this Act be disallowed.

That with respect to Chap. 57, intituled: "An Act to incorporate the Nova Scotia Mutual Fire Insurance Company," he is of opinion that the 14th section is unconstitutional, in so far as it declares that the President and Directors of the Company incorporated by the Act, shall, for certain acts therein stated, be deemed guilty of misdemeanor.

That this is a matter relating to the Criminal Law which can only be dealt with by the Parliament of Canada.

That the attention of the Government of Nova Scotia should be called to this clause, so that it may be amended at the ensuing Session of the Legislature of that Province.

The Committee submit the foregoing recommendations for Your Excellency's approval.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation disallowing Chap. 32.

GOVERNMENT HOUSE, OTTAWA, Saturday, 16th December, 1871.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Nova Scotia, with the Legislative Council and Assembly of the said Province, did, on the fourth day of April, A.D., 1871, pass an Act which has been transmitted, intituled as follows, viz.:—

Chapter 32.—"An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and, therefore, recommending that the said Act should not receive the confirmation of the Governor General,—

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, John, Baron Lisgar, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Nova Scotia, on the 4th day of April, 1871, intituled: "An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton," was received by me on the 29th day of July, 1871.

Given under my hand and seal this sixteenth day of December, 1871.

[L.S.] LISGAR.

NOVA SCOTIA, 35TH VICTORIA, 1872.

1ST SESSION—25TH GENERAL ASSEMBSY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 1st March, 1873.

The undersigned, to whom was referred a certified copy of the Statutes passed by the Legislature of Nova Scotia in the last Session thereof (35th Victoria, 1872), has the honor to report:—

That after a careful examination of the said Statutes, he is of opinion that the same are unobjectionable. He, therefore, recommends that they be left to their operation.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th March,* 1873.

On a Memorandum dated 1st March, 1873, from the Honorable the Minister of Justice to whom was referred a certified copy of the Statutes passed by the Legislature of Nova Scotia in the last Session thereof (35 Vict. 1872), reporting that after a careful examination of the said Statutes he is of opinion that the same are unobjectionable, and, therefore, recommends that they be left to their operation.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

NOVA SCOTIA, 36TH VICTORIA, 1873.

2ND SESSION—25TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd September, 1874.

The undersigned, to whom was referred a certified copy of the Statutes passed by the Legislature of Nova Scotia, in the Session 36 Victoria, 1873, has the honor to report, that after a careful examination of the undermentioned Statutes, he is of opinion that the same are unobjectionable, and he, therefore, recommends that they be left to their operation :—

Chapters 1 to 37, inclusive, and 41 to 95 inclusive.

With reference to the Statutes not included in the above list, the undersigned has the honor to report as follows :—

Chapter 38.—" An Act to incorporate the Whitehaven, New Glasgow and North Shore Railway."

Section 6.—This section appears to give power to the Railway Company for purchasing and holding within and without the Province, lands, buildings, &c., and all appurtenances of a railway, and to make such connections as they think proper with other railways and steamboat proprietors and companies, within and without the Province, &c.

How far it may be wise to give such general powers to a railway company to be exercised within the Province may be questioned, but they would appear to be not beyond the jurisdiction of a Local Legislature ; but the giving of the same powers to be exercised without the Province is, in the opinion of the undersigned, clearly in excess of the jurisdiction of a Local Government, and it is in fact legislation upon works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province, contrary to Section 92, Sub-section 10 of the British North America Act 1867, and the undersigned suggests that the Government of Nova Scotia should be requested to repeal the same.

Section 9 gives the Company power to construct their railway over and across any river, brook or stream.

This is also objectionable, in so far as it does not except the navigable waters, from the operations of the Section.

In the Parliament of Canada, when Acts are passed of a similar nature to the present one, great care is taken to provide that the crossing of any navigable waters shall only be permitted by the Governor in Council, and after approval by him of the plans for such work.

The undersigned recommends that the Government of Nova Scotia should be requested to amend this section.

Chapter 39.—" An Act to incorporate the Sydney and East Bay Railway Company."

Sections 9 and 12.—The remarks made as to the preceding Act, also apply to this one.

Section 10.—The effect of this Section should be limited to Railways within the Province.

Chapter 40—"An Act to incorporate the Nictaux and Atlantic Railway Company." Sections 8, 11, 14.—The remarks made on Chapter 38 are applicable to this one.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th September*, 1874.

The Committee of the Privy Council have had under consideration the Memorandum dated 3rd September, 1874, and hereunto annexed, from the Hon. the Minister of Justice, to whom was referred a certified copy of the Statutes passed by the Legislature of the Province of Nova Scotia, in the Session 36 Victoria, 1873, and they respectfully recommend that said Statutes be left to their operation, but that the attention of the Government of Nova Scotia be called to the several Acts or sections of Acts mentioned in the latter part of the said annexed memorandum.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

NOVA SCOTIA, 37TH VICTORIA, 1874.

3RD SESSION—25TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th December, 1874.

The undersigned, to whom was referred a certified copy of the Statutes passed by the Legislature of the Province of Nova Scotia, in the Session 37th Victoria, 1874, has the honor to report, that after a careful examination of the under-mentioned Statutes, he is of opinion that the same are unobjectionable, and he therefore recommends that they be left to their operation.

Chapters 1 to 13 inclusive 16, 17, 19, to 50 inclusive, 61, 64, 65, 66, 67, 70, 71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 84, to 103 inclusive.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur in the above Report.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 12th December*, 1874.

The Committee of the Privy Council have had under consideration the Memorandum dated 4th December, 1874, thereunto annexed, from the Honorable the Minister of Justice, to whom was referred copy of the Statutes passed by the Legislature of the Province of Nova Scotia, in the Session 37 Victoria, 1874, and they concur in the recommendation that the Statutes mentioned in said Memorandum be left to their operation.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th December, 1874.

The undersigned has the honor to report, that an Act was passed by the Legislature of Nova Scotia, in the Session 37th Victoria, 1874, being Chaptered 74, and intituled: "An Act to incorporate the Halifax Company, Limited."

The objects of this Company are very extended, but, except as after mentioned, do not, on the face of them, appear to contemplate business out of the Province; but the undersigned is of opinion that attention must be given to Sec. 1, Sub-Sec. 7, which gives power to the Company to acquire * * * * * any steam or other ships, barges or vessels for the purpose of conveying goods, whether belonging to the Company or not, or of conveying persons, and between any places whatever, and maintaining and running the same.

Also Sub-Sec. 9—Confers power on them to acquire * * * * * for or in any connection with all or or any of the purposes hereby authorized, any buildings, plants, machinery, stock in trade, goods, chattels, or effects in any part of the world.

Sub-Sec. 10—"To acquire by grant, purchase, license or otherwise, any patents, *brevêts d'invention*, patent rights or copyrights, which may be desirable for the purposes of the Company."

Sub-Sec. 15—"To procure the Company to be constituted or incorporated as a corporation or anonymous society in any colony or foreign country."

Sub-Sec. 16—"To procure, obtain, accept, and observe the terms and conditions of any decrees, concessions, powers or privileges made or granted now or hereafter by any Government or other authorities."

Sub-Sec. 17—"To purchase, take over and adopt all or any part of the good-will, assets and liabilities of any other Company or person carrying on all or any branches of the business mentioned herein, and to buy, hold or sell any of the shares of the same Company, and to liquidate and wind up its business and affairs."

Sub-Sec. 18—"To make and carry into effect, any arrangements with respect to the union of interests or amalgamation with any other company, corporation or person carrying on any business similar to that of this Company, &c."

Sec. 6—Also gives power to the "Company to make and construct any roads, railroads, &c., * * * * * over, under and across any road, railroad, tramroad, or river, brook or stream," without any reference to the rights of navigation.

Whilst these rights cannot be affected by any Local Legislation, it would seem advisable that in such cases as the present, some mention should be made of them.

As to the Act itself, and the points previously alluded to, it appears by Section 7 that "the Halifax Company, Limited, is a Company incorporated in England under the Imperial Acts, 'The Companies Act, 1862,' and 'The Companies Act, 1867.'"

When the powers conferred by the Act are taken together, and in connection, especially, with the sub-sections which have been alluded to, it appears obvious that the incorporation of the Company is for objects beyond the powers and control of a Local Legislature. It cannot be said that it is for purely local works or undertakings, nor is it an incorporation of a Company with Provincial objects, or of a merely local or private nature in the Province.

The undersigned, therefore, recommends that the Act in question should be disallowed.

H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

Proclamation disallowing the above mentioned Act.

GOVERNMENT HOUSE, OTTAWA, Saturday, 12th December, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Nova Scotia, with the Legislative Council and Assembly of the said Province, did, on the 7th day of May, 1874, pass an Act which has been transmitted, intituled as follows, viz.:—"An Act to incorporate the Halifax Company, Limited;"

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Nova Scotia, on the 7th day of May, 1874, intituled: "An Act to incorporate the Halifax Company, Limited," was received by me on the 22nd day of August, 1874.

Given under my hand and seal this 12th day of December, 1874.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th December, 1874.

Upon the undermentioned Act, passed by the Legislature of Nova Scotia, 1874, the undersigned has the honor to report "An Act to incorporate the Anglo-French Steamship Company."

This Act proposes to incorporate certain persons under the above name, for the purpose of running a steamer or steamers to and from Ports in Nova Scotia, the Island of St. Pierre Miquelon, and Newfoundland.

On the face of this Act it is shown to be for a line of steamships extending beyond the limits of the Province, and being between the Province and a British, as also a Foreign country, it obviously, therefore, comes within one of the classes mentioned in the British North America Act, Sec. 92, sub-section 10, clauses *a* and *b*.

The undersigned has the honor to advise that this Act is not within the competence of a Provincial Legislature, and to recommend therefore that this Act be disallowed by Your Excellency.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

Proclamation disallowing the above mentioned Act.

GOVERNMENT HOUSE, OTTAWA, Saturday, 12th day of December, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Nova Scotia, with the Legislative Council and Assembly of the said Province, did, on the 7th day of May, 1874, pass an Act, which has been transmitted, intituled as follows, viz: "An Act to incorporate the Anglo-French Steamship Company;"

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore, recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has, thereupon, this day been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province

of Nova Scotia, on the 7th day of May, 1874, intituled: "An Act to incorporate the Anglo-French Steamship Company," was received by me on the 22nd day of August, 1874.

Given under my hand and seal this 12th day of December, 1874.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 7th December, 1874.

Upon the undermentioned Acts of the Legislature of the Province of Nova Scotia, passed in the 37th Victoria, 1874, the undersigned has the honor to report as follows:—

Chapter 18.—"An Act to establish County Courts."

By Section 3 it is provided that one Judge shall be appointed for each County Court District, and further, that "every such Judge shall be a Barrister of the "Supreme Court of this Province of not less than seven years standing."

In respect to this latter limitation, the undersigned thinks it well to refer to the "British North America Act, 1867," Section 97, by which the only limit to the discretion of the Governor General in selecting such Judges from the several Provinces is that they shall be selected from the Bars of those Provinces.

The undersigned does not desire to express any definite opinion whether having reference to the Imperial Statute, it is within the power of a Local Legislature to pass the clause above alluded to.

He suggests the subject to the consideration of the Government of Nova Scotia, and recommends that the Act be left to its operation.

Chapter 62.—"An Act to incorporate the Eastern Counties Railway Company."

Section 10—Authorizes the Company to purchase and hold, within or without the Province, lands, houses and materials, &c., to make such connections as they may think proper with other railway or steamboat companies, within or without the Province, either by leasing their road to other corporations, &c., or by consolidating the stock of their road with that of any other railway companies, &c. This provision seems to be beyond the power of the Legislature of Nova Scotia, which in this respect is confined by Section 92, Sub-section 10, to local work and undertaking, except lines of steamships. Railways, &c., connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province.

Nor does it seem to be under the terms laid down in Sub-section 11 of that section. The "incorporation of Companies with Provincial objects."

It is suggested that this clause be repealed, and their powers limited.

Section 13—Empowers the Company to construct its railroad over, under and across any harbor, cove, river, brook or stream.

This clause is one of frequent occurrence in private Acts, and it appears desirable in all cases to make a direct reservation regarding navigation and its rights as reserved to the Parliament of Canada.

It is true that the absence of any reference to navigation cannot prejudice the powers of the Parliament of Canada, or the action of the Government of Canada in respect to the same, but it is suggested that parties would be more thoroughly cognizant of their position in such respect if direct reference were made to the rights of navigation.

Chap. 63.—"An Act to incorporate the Inverness Railway Company," Sec. 14.

Chap. 68.—"An Act to incorporate the Styles Mining Company, Limited," Sec. 10.

Chap. 69.—"An Act relating to the General Mining Association, Limited," Sec. 2.

The remarks made in reference to navigation, apply also to these sections.

The undersigned recommends, however, that the Acts be left to their operation, the subject being brought under the notice of the Government of Nova Scotia, with the reference to these clauses and future legislation on these subjects.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 12*th December*, 1874.

The Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Hon. the Minister of Justice, having reference to certain clauses in Chapters 18, 62, 63, 68 and 69 of the Acts passed by the Legislature of the Province of Nova Scotia in the thiry-seventh Victoria, 1875, and to which objections exist, and in accordance with the recommendation submitted in the said Report, they advise that the said Acts be left to their operation, but that the attention of the Government of Nova Scotia be called to the clauses in question, with a view to future Legislation on the subjects to which they relate.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Langevin to Lieutenant-Governor Archibald.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
OTTAWA, 17th December, 1874.

SIR,—I am directed to transmit to you, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council and of the Memorandum of the Hon. the Minister of Justice therein referred to, on the subject of certain clauses in Chapters 18, 62, 63, 68 and 69 of the Acts passed by the Legislature of the Province of Nova Scotia, during its last Session.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor the Lieutenant-Governor of Nova Scotia,
Halifax.

Lieutenant-Governor Archibald to the Secretary of State of Canada.

(No. 76.)

GOVERNMENT HOUSE, HALIFAX, N.S., 22nd December, 1874.

SIR,—I have the honor to acknowledge the receipt of Mr. Under Secretary Langevin's Despatch of the 17th inst., No. $\frac{21}{11}\frac{52}{40}$, enclosing copy of an Order of His Excellency the Governor General in Council, and of the Memorandum of the Hon. the Minister of Justice therein referred to, on the subject of certain clauses in Chapters 18, 62, 63, 68 and 69 of the Acts passed by the Legislature of the Province of Nova Scotia, during its last Session, and shall at an early date lay the same before my Council, with a view to action being taken upon the suggestion contained in the Report, and to prevent the recurrence of similar clauses in future legislation.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Hon. the Secretary of State.
Ottawa.

Lieutenant-Governor Archibald to the Secretary of State of Canada.

GOVERNMENT HOUSE, HALIFAX, NOVA SCOTIA, 24th July, 1874.

SIR,—I have the honor to enclose a certified copy of a Bill entitled: "An Act to facilitate arrangements between Railway Companies and their Creditors," which was presented to me at the close of the last Session of the Legislature of this Province, but to which I did not accord my assent, reserving it for the signification of the pleasure of His Excellency the Governor General. My reason for reserving the Bill was, that I considered the subject not within the jurisdiction of the Local Legislature.

The Union Act commits to Parliament, legislation on subjects of bankruptcy and insolvency.

This Act seems to encroach upon the domain of Parliament. It proposes to facilitate arrangements between certain companies and their creditors; it is confined, it is true, to companies constituted by Acts of the Local Legislature, and may have proceeded on the idea that the companies, being of local jurisdiction, the insolvency of such companies might be dealt with by the Local Legislature; but this interpretation of the Act could hardly be considered gravely.

It may be said that the operation of the Act is not necessarily confined to insolvent companies—that it may well apply to companies embarrassed, but able to pay in full, if time is allowed.

But the Bankruptcy and Insolvency Acts are not confined to the estates unable to pay. It is sufficient that the parties are unable to meet existing engagements, and then this should be testified in certain modes prescribed by the Bankruptcy Acts. The question of eventual inability to pay, is quite another matter.

This Act undertakes to deal with the rights of creditors, to prevent them from enforcing their claims; in effect, it seems to me to repeal the provisions of the law of Bankruptcy and Insolvency so far as regards the class of companies specified in it.

Under these circumstances, I thought it my duty to leave the matter for the consideration of His Excellency the Governor General, for such action thereon as he may think fit to adopt.

May I request you will have the goodness to bring the matter to the early notice of His Excellency.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD.

Lieutenant-Governor.

The Hon. the Secretary of State,
Ottawa.

Memorial of the Windsor and Annapolis Railway Company.

To His Excellency the Governor-General of the Dominion of Canada in Council:

The Memorial of the Windsor and Annapolis Railway Company (Limited),

HUMBLY SHOWÈTH:

That your memorialists are a company composed for the most part of capitalists resident in Great Britain, registered in England on the 1st of March, 1867, as a "Limited" Company, under an Act of the Imperial Parliament, entitled: "The Companies' Act, 1862," and incorporated by an Act of the Legislature of Nova Scotia (30 Vic., Chap. 36) on the 7th of May, 1867.

The object for which your memorialists were incorporated was the construction and workng of a portion of one of the sections of the Government Railways of the Province of Nova Scotia, extending from Windsor to Annapolis, a distance of eighty-five miles.

The capital embarked by your capitalists amounts to £300,000, in fifteen thousand shares of £20 each. Your memoralists have, as provided by their articles of association, also raised the further sum of £200,000 by the issue of terminable debentures carrying interest at the rate of six per cent. per annum.

Your memorialists having completed the construction of the line of railway, have now operated it, with the utmost energy and regularity, for more than five years; but all their efforts have hitherto failed to derive a return on their invested capital, the income from the road after payment of expenses not even sufficing to meet any part of the interest upon the debenture debt.

Your memorialists, however, have, with continued regularity, paid this interest to the holders of their debentures, having necessarily to provide the funds therefor by borrowing, and the capital requirements of the road having been met in a similar manner, your memorialists have, up to the present time, increased floating debts to the amount of £100,000.

It would, therefore, appear that the circumstances of the Company are such as to necessitate an increase of capital, and their articles of association giving them power to negotiate such increase, your memorialist last year proposed a scheme to their bondholders by means of which a further sum of £100,000 might be raised on mortgages to rank equal with those already existing, and over four-fifths of the parties interested acquiesced in the said scheme.

But owing to the objection of a few remaining bondholders, your memorialists were unable to carry out their scheme, and the interest of the whole of the capitalists connected with the undertaking were thereby endangered.

In order, therefore, to protect the interests of the great majority of debenture holders, and that the ill-advised hostility of a few might not be permitted to hamper the well-considered plans of your memorialists for the benefit of the line, a Bill was introduced into the Honorable the House of Assembly of Nova Scotia, entitled: "An Act to facilitate arrangements between Railway Companies and their creditors,"

the intention of which was to prevent any small number of creditors from exercising the power of selling or otherwise acting towards your memorialists' property, in a way likely to affect the continued running of the road. This Bill was twice passed by the Honorable the House of Assembly in their Sessions in 1872 and 1873 respectively; in both instances, however, it was too late to pass the Legislative Council.

At the last Session the Bill being again introduced, was unanimously passed by both Honorable Houses.

His Honor the Lieutenant-Governor, however, reserved the Act for the consideration of Your Excellency in Council.

It has come to the knowledge of your memorialists that a few gentlemen, in Halifax, holding bonds to the extent of some seven thousand five hundred pounds sterling, have thought fit to petition Your Excellency to withhold your assent to their Bill on the grounds that it will materially affect a prior lien upon the property, which they claim to hold, to the exclusion of other bonds of the same class, and compel them, at the instance of other creditors of the Company, to compromise their just claims.

It is further stated in the said petition that the petitioners would have opposed the passage of the Act, had they been aware of its introduction into the House of Assembly, and also that it was hurried through the Legislative Council before they were enabled to signify their objections to it.

Your memorialists regret to observe that there is considerable error in their statements since the Bill was introduced on the 24th March; read second time and referred to Committee on Law Amendments, 26th March; Reported from this Committee, and committed, 9th April; passed in Committee and ordered to be engrossed, 5th May; read a third time and sent to Legislative Council, 5th May; every stage of these proceedings being duly reported in the newspapers.

Also, upon its being sent to the Legislative Council, opposition was made thereto by the gentlemen signing the above-mentioned petition, and, in consequence, the Bill was referred to a Committee of the Council, the Hon. Mr. Creighton being Chairman, who summoned representatives of those gentlemen and of your memorialists to appear before them.

Accordingly, on the 6th of May, Dr. Lewis, of Halifax, appearing for certain of the objecting parties, was heard before the said Committee, who also examined your memorialists' Commissioner, and the said Committee reporting in favor of the Bill, with certain amendments, it was passed in the Council, returned to the House of Assembly, and finally passed on the 7th of May.

Your memorialists claim that the passing of the Bill will be no injustice to the opposing parties, nor to any of the Company's creditors, since it provides that any scheme of arrangement must be assented to in writing by three-fourths of the class of creditors affected by its proposals, and that, should any refuse their assent, they may be heard before a Judge of the Supreme Court who, upon considering their objections valid, may disallow the proposed scheme.

Your memorialists contend that such an Act is indispensable to any Railway company in monetary difficulties, and, in consequence, similar Acts have been placed upon the Statute Books of Great Britain and most of the Provinces of the Dominion of Canada.

Should this Bill be disallowed, your memorialists will be debarred from all power of developing their property, or even from saving it from annihilation, and thereby not only will their invested capital be jeopardised and an injury done to their creditors, but a great and manifest harm will occur to the Province of Nova Scotia.

Your memorialists, therefore, in all humility beg that Your Excellency may be pleased to signify your assent to the Act.

And your memorialists, as in duty bound, will ever pray, &c.

The Windsor and Annapolis Railway Company (Limited) by their lawfully appointed Commissioner,

(Signed) ELIAS A. DEPASS.

OTTAWA, 1st December, 1874.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th December, 1874.

The undersigned has the honor to report, that in the Session of the Legislature of the Province of Nova Scotia held in May last, a Bill was passed, intituled: "An Act to facilitate arrangements between Railway Companies and their creditors," which was reserved, by the Lieutenant-Governor, for the signification of the pleasure of Your Excellency thereon.

The Lieut.-Governor reports that his reason for reserving the Bill was that he considered the subject not within the jurisdiction of the Local Legislature, and that it seemed to entrench upon the domain of Parliament, as being within the subjects of "Insolvency and Bankruptcy."

The Lieut.-Governor says, that the operation of the "Act is not necessarily confined to Insolvent Companies embarrassed, but able to pay in full, if time is allowed, but the Bankruptcy and Insolvency Acts are not confined to the estates unable to pay. It is sufficient that the parties are unable to meet existing engagements, and that it should be testified in certain modes prescribed by the Bankruptcy Acts. The question of eventual inability to pay is quite another matter.

He states that "the Act undertakes to deal with the rights of creditors, to prevent them from enforcing their claims, in effect to repeal the provisions of the Law of Bankruptcy and Insolvency, so far as regards the classes of companies specified in it."

"2. A Petition is submitted against the Royal Assent to this Bill, signed by five Residents of Halifax, who state that, although no direct reference is made in the Act itself, to the Windsor and Annapolis Railway Company, yet that it was introduced at the instance of that Company and for the sole purpose of enabling the Directors to compromise with its creditors, and that its provisions materially effect the interests of the memorialists who hold mortgage debentures or bonds to the extent of £7,500 sterling of the Windsor and Annapolis Railway Company. That the said bonds have been registered in the different counties, and under the laws of Nova Scotia have become liens on the property, according to the dates of their registry, to the exclusion of other bonds of the same class not registered at all, or registered subsequently."

That if the Act should be assented to, they are afraid that they would be prevented from recovering the amount justly due them by the Windsor and Annapolis Railway Company, and be compelled, at the instance of the Company and its creditors, who are not secured to the same extent as they are, to compromise their claims and give up their security. That they had intended to have appeared before the Committee of the House of Assembly and oppose the passage of the Act, but that none of them were aware that the same had been introduced until it had passed through the House on the 5th May last, and that as it was hurried through the Council on the morning of the 7th May, the same day on which the Legislature was prorogued, they were unable to oppose its passage.

That if the Act becomes law, great injustice will be done to them, and they pray for its disallowance, so that they may have an opportunity, in case the Act is again introduced into the Local Legislature, of being fully heard before a Committee in the House.

In the letter transmitting this petition, the writer states that the Bill would have been defeated in the Legislative Council, but for an intimation of Dr. Parker that the rights of bondholders would not be affected.

3. The Windsor and Annapolis Railway Company (Limited), presents a petition in favor of the passage of the Act, stating that they are a Company incorporated in England, under the "Joint Stock Companies Act," for the construction and working of a portion of one of the sections of the Government Railways, from Windsor to Annapolis, being eighty-five miles.

That the capital embarked is £300,000 sterling, with further sum of £200,000 sterling by the issue of terminable debentures at 6 per cent. interest per annum.

They allege that they have completed the construction of the line, and have operated it for five years, but unsuccessfully; and that they have paid interest to the debenture-holders, and have thereby incurred a floating debt to the amount of £100,000.

That the Company require an increase of capital, and their articles of association permit such increase. That they proposed a scheme to the bondholders by means of which a further sum of £100,000 might be raised on mortgages to rank equal with those already existing; and that over four-fifths of the parties interested acquiesced in the scheme, but that the few remaining bondholders objected, and the scheme fell to the ground.

That to meet this difficulty the Bill in question was passed; the intention being to prevent any smaller number of creditors from exercising the power of selling or otherwise acting in a way likely to affect the continued running of the road; and that the Bill was twice passed in the House of Assembly in their Sessions of 1872-73, but, in both instances, too late to pass the Legislative Council.

With reference to the allegations in the petition against the Bill, as to the same having been hurried through the Legislature, they state that the Bill was introduced on the 24th March, passed the Committee with amendments thereto, and did not pass the Assembly until the 5th May; and that, in respect to the Council, the representatives of the gentlemen who petitioned against the same were summoned, and appeared before them.

They allege that the passage of the Bill will be no injustice to the opposing parties or to any of the Company's creditors, since it provides that any scheme of arrangement must be assented to by three-fourths of the class of creditors affected by it, and by other provisions.

They contend that such an Act is indispensable to any Railway Company in monetary difficulties, and that, if disallowed, the Company would be debarred from all power of developing their property, or even from saving it from annihilation, and an injury would be done to the creditors.

4. The Bill itself provides that a Company may propose a scheme of arrangement between itself and their creditors, with or without provisions for settling, and defining any rights of shareholders as among themselves, and for raising, if necessary, additional share and loan capital, and may file the same in the Supreme Court, upon which the latter may, on the application of the Company, in a summary way, restrain any action against the Company on such terms as the Court thinks fit. Notice of the filing of the scheme is to be published, after which no execution or process against the Company shall be available, without leave of the Court.

The scheme is to be deemed to be assented to by the creditors when assented to in writing by three-fourths in value, and by the preference shareholders by three-fourths in value of each class, and by the ordinary shareholders when assented to at an extraordinary general meeting, specially called for that purpose; but the assent to the scheme of any class of encumbrances or shareholders is not to be requisite, if the scheme does not prejudicially affect any right or interest of such class.

If the Directors thereupon consider the scheme to be assented to, they may apply to the Court by petition for confirmation, and the Court, if satisfied that the scheme has been assented to, and that no sufficient objection has been established, may confirm it, whereupon it shall be enrolled in the Court and binding on all parties.

5. It is under the foregoing circumstances that the Bill requires either Your Excellency's assent or disallowance.

It may be mentioned, in the first place, that the Act is by its terms specially limited to any Railway Company constituted by any Act of the Legislature of Nova Scotia; and, further, that it does not conflict with any law of Canada relating to Bankruptcy or Insolvency.

The Insolvent Act of Canada, 1869, does not extend to Incorporated Companies, and to reach such matter as the present it would be requisite that legislation should, if necessary, be had.

As to the necessity for legislation of such a kind as the present, or of its nature, there can be no doubt that it frequently exists, and in England provision is made frequently for the winding up of Companies or for enabling them to come to terms with the various classes of creditors on fresh provisions and arrangements which shall enable a concern to be carried on.

The same legislation has, on various occasions, been passed by the Parliament of Canada—not, indeed, to the extent of winding up, but as to re-arrangements of its shares and debenture indebtedness. In so doing it is obvious that private interests must be more or less affected, and it is, therefore, left to a majority or larger proportion of the parties interested to decide whether the scheme should be accepted by them or not.

In reference, therefore, to the allegations made by the petitioners against the Bill, and as it appears for nearly six weeks after its introduction into the Legislative Assembly, the petitioners had the power of taking steps to represent their interests before the Legislative Assembly of Nova Scotia, and as the same passed the Committee of both Houses and was amended in both, the undersigned is of opinion that no reason exists on these grounds for withholding Your Excellency's Assent.

6. The point, therefore, for consideration, and which is one of some importance, is that raised by the Lieutenant-Governor, namely, that the Act deals with a subject not within the jurisdiction of a Local Legislature, inasmuch as it deals with "Bankruptcy and Insolvency" which are, by the B. N. A. Act, 1867, reserved to the Parliament of Canada alone.

Upon this point the undersigned refers to the judgment of the Judicial Committee of the Privy Council on the appeal of L'Union St. Jacques de Montréal *v.* Dame Julie Belisle, on appeal from the Court of Queen's Bench for the Province of Quebec, Canada (appeal side) delivered 8th July, 1874.

In that case an Act was passed by the Legislature of the Province of Quebec, in reference to the Society of L'Union St. Jacques de Montréal, imposing a forced commutation of the existing rights of two widows, who at the time when that Act was passed, were annuitants of the Society under the rules.

The reason for that Act was, by its recitals, stated to be that the resources of the Society had been considerably reduced, and encroachments made on its savings and the balancing of receipts and expenses prevented, and that two out of the four widows of deceased members had agreed to allow their weekly and life benefits to be lessened, but that the other two refused so to do, and that it had been shown that the financial condition of the Association did not permit of its continuing to pay to the two widows their previous pensions without entailing its own ruin.

The Judicial Committee of the Privy Council said: "Clearly this matter is private, clearly it is local, so far as locality is to be considered, because it is in the Province and in the City of Montreal, and unless, therefore, the general effect of that head of Section 92 is for this purpose qualified by something in Section 91, it is a matter not only within the competency, but within the exclusive competency of the Provincial Legislature."

The question then was whether it was a matter coming under bankruptcy and insolvency, and the view taken by their Lordships in this respect is set out.

They further add that no general law, in respect to bankruptcy and insolvency, covering particular associations, or the society in question, is alleged ever to have been passed by the Dominion, and they add these words:—

"The fact that this particular society appears, upon the face of the Provincial Act, to have been in a state of embarrassment, and in such a financial condition that, unless relieved by legislation, it might have been likely to come to ruin, does not prove that it was in any legal sense within the category of insolvency, and, in point of fact, the whole tendency of the Act is to keep it out of that category, and not to bring it into it. The Act does not terminate the Company; it does not propose a final distribution of its assets on a footing of insolvency or bankruptcy; it does not wind it up.

"On the contrary, it contemplates its going on, and possibly at some future time

recovering its prosperity, and then these creditors, who seem on the face of the Act to be somewhat summarily interfered with, are to be re-instated.

"Their Lordships are clearly of opinion that this is not an Act relating to Bankruptcy and Insolvency."

The undersigned is of opinion that the present reserved Bill of Nova Scotia comes within the argument taken by their Lordships in the case of the Quebec Act. Although in the Nova Scotia Bill, no particular Company is named, yet it applies to any Railway Company within the Legislative competence of that Legislature in a state of embarrassment, and in such a financial condition that, unless relieved by legislation, it may be likely to come to ruin.

In point of fact, indeed, as was observed by their Lordships, the whole tendency of the Bill of Nova Scotia is to keep it out of that category, and not to bring it into it. The Bill does not terminate the Company; it does not propose a final distribution of its assets on the footing of insolvency or bankruptcy; it does not wind it up.

On the contrary, its object is to ensure its going on and recovering its prosperity.

The Act itself seems very reasonable. It propounds a scheme to be filed in the Supreme Court, and which, from beginning to end, is to be under the protection of the Court, and before which any sufficient objection may be heard.

The interest of creditors of preference shareholders, and of ordinary shareholders, are all protected. The two former by votes of three-fourths in value, and as to the latter at an extraordinary general meeting.

The confirmation of the scheme depends upon the judgment of the Court, who have the power of hearing the directors and creditors, shareholders, or other parties whom the Court thinks entitled to be heard on the application.

Simple as it is, the details appear calculated to effect the desired objects.

It appears to provide full machinery for enabling any Company, temporarily embarrassed, to provide means for continuing their operations and business.

6. Under all these circumstances, the undersigned recommends that Your Excellency should assent to the said Bill.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

(Signed) T. FOURNIER,
Minister of Justice.

Proclamation giving Assent to above-mentioned Act.

GOVERNMENT HOUSE, OTTAWA, Saturday, 12th day of December, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas, by an Act passed in the 31st year of Her Majesty's reign, intituled: "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for purposes connected therewith," it is amongst other things enacted that a Bill, reserved for the signification of the pleasure of the Governor General, shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by Speech or Message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor General in Council;

And, whereas, on the 7th day of May ultimo, the Lieutenant-Governor of the Province of Nova Scotia reserved a certain Bill, passed by the Legislative Council and Assembly of the said Province, entitled: "An Act to facilitate arrangements

between Railway Companies and their Creditors," for the signification of the Governor General's pleasure thereon ;

And, whereas, the said Bill so reserved as aforesaid has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General ;

Now, therefore, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth, by this present order, by and with the advice of His Privy Council, declare his assent to the said Bill ;

And the Secretary of State is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

The Secretary of State to the Lieutenant-Governor of Nova Scotia.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,

OTTAWA, 14th January, 1875.

SIR,—With reference to the letter to you from this Department, of the 15th ultimo, informing you of the assent of His Excellency the Governor General to the Act of the Nova Scotia Legislature, entitled: "An Act to facilitate arrangements between Railroad Companies and their Creditors," which Act was reserved by you for the signification of His Excellency's pleasure thereon, I am directed to communicate to you the grounds upon which His Excellency was advised to assent thereto.

His Excellency carefully considered the reasons so freely urged by you in your Despatch of the 24th July last, for reserving the Bill, and concurs with you in the propriety of your course in so reserving it.

His Excellency had also under consideration, in connection with your Despatch, a petition, praying that his assent might not be given to the Bill, signed by five residents of Halifax, who stated that, although no direct reference was made in the Act itself to the Windsor and Annapolis Railway Company, yet that it was introduced at the instance of that Company, and for the sole purpose of enabling the Directors to compromise with its creditors and that its provisions materially affected the interests of the petitioners who hold mortgage debentures on bonds to the extent of £7,500 sterling, of the Windsor and Annapolis Railroad Company; that the said bonds had been registered in the different counties, and under the laws of Nova Scotia, had become liens on the property, and took priority according to the dates of their registry, to the exclusion of other bonds of the same class not registered at all, or registered subsequently :—That if the Act should be assented to, they were afraid that they would be prevented from recovering the amounts justly due them by the Windsor and Annapolis Railroad Company, and be compelled, at the instance of the Company and its creditors, who were not secured to the same extent as they were, to compromise their claims and give up their security :—That they had intended to have appeared before the Committee of the House of Assembly, and oppose the passage of the Act, but that none of them were aware that the same had been introduced until it had passed through the House on the 5th May last, and that as it was hurried through the Council on the morning of the 7th May, the same day on which the Legislature was prorogued, they were unable to oppose its passage :—That if the Act became law, great injustice would be done to them, and they prayed for its disallowance, so that they might have an opportunity, in case the Act was again introduced into the Legislature, of being fully heard before a Committee of the House.

In the letter transmitting this petition, the writer stated that the Bill would have been defeated in the Legislative Council, but for an intimation of Dr. Parker that the rights of the bondholders would not be affected.

The Windsor and Annapolis Railroad Company also presented a petition to His Excellency in favor of the passage of the Act, stating that they were a Company incorporated in England under the "Joint Stock Companies' Acts" for the construction and working of a portion of one of the sections of the Government railways from Windsor to Annapolis, being eighty-five miles; that the capital embarked was £300,000 sterling, with a further sum of £200,000 sterling, by the issue of terminable debentures at six per cent. interest per annum. They alleged that they had completed the construction of the line, and had operated it for five years, but unsuccessfully, and that they had paid interest to the debenture holders, and had, thereby, incurred a floating debt to the amount of £100,000:—That the Company required an increase of capital and their articles of association permitted such increase:—That they had proposed a scheme to the bondholders by means of which a further sum of £100,000 might be raised on mortgages to rank equally with those already existing, and that over four-fifths of the parties interested had acquiesced in the scheme, but that the few remaining bondholders had objected and the scheme had fallen to the ground; that, to meet this difficulty, the Bill in question was passed, the intention having been to prevent any smaller number of creditors from exercising the power of selling or otherwise acting in a way likely to affect the continued running of the road, and that the Bill had been twice passed in the House of Assembly in the Sessions of 1872-73, but, in both instances, too late to pass the Legislative Council.

With reference to the allegations in the petition against the Bill as to the same having been hurried through the Legislature, they stated that the Bill was introduced on the 24th March, passed the Committee with amendments thereto, and did not pass the Assembly until the 5th May, and that, in respect to the Council, the representations of the gentlemen who petitioned against the same, were summoned and appeared before them. They alleged that the passage of the Bill would be no injustice to the opposing parties or to any of the Company's creditors, since it provided that any scheme of arrangement must be assented to by three-fourths of the class of creditors affected by it and by other provisions.

They contended that such an Act was indispensable to any Railway Company in monetary difficulties, and that if disallowed, the Company would be debarred from all power of developing their property, or even from saving it from annihilation, and an injury would have been done to the creditors.

The Bill itself provides that a Company may propose a scheme of arrangement between itself and its creditors, with or without provisions for settling and defining any rights of shareholders as among themselves, and for raising, if necessary, additional share and loan capital, and may file the same in the Supreme Court, upon which the latter may, on the application of the Company in a summary way, restrain any action against the Company on such terms as the Court thinks fit.

Notice of the filing of the scheme is to be published, after which no execution or process against the Company shall be available without leave of the Court. The scheme is to be deemed to be assented by the creditors, when assented to in writing by three-fourths in value, and by the preference shareholders by three-fourths in value of each class, and by the ordinary shareholders when assented to at an extraordinary general meeting specially called for that purpose, but the assent to the scheme of any class of encumbrances or shareholders is not to be requisite if the scheme does not prejudicially affect any right or interest of such class. If the Directors thereupon consider the scheme to be assented to, they may apply to the Court by petition for confirmation, and the Court, if satisfied that the scheme has been assented to, and that no sufficient objection has been established, may confirm it, whereupon it shall be enrolled in the Court and binding on all parties.

It was under the foregoing circumstances that the Bill required either His Excellency's assent or disallowance.

His Excellency was advised, in the first place, that the Act was by its terms specially limited to any Railway Company, constituted by any Act of the Legislature

of Nova Scotia, and, further, that it did not conflict with any law of Canada relating to Bankruptcy or Insolvency.

The Insolvent Act of Canada, 1869, does not extend to incorporated Companies, and to reach such a matter as the one under His Excellency's consideration it would be requisite that legislation should, if necessary, be had.

As to the necessity for legislation of such a kind as the present, or of its nature, there can be no doubt. His Excellency was advised, that it frequently exists, and in England provision is made frequently for the winding up of Companies,or for enabling them to come to terms with the various class of creditors, on fresh provisions and arrangements, which shall enable a concern to be carried on.

The same legislation has, on various occasions, been passed by the Parliament of Canada, not indeed to the extent of winding up, but as to re-arrangement of its share and debenture indebtedness. In so doing it is obvious that private interests must be more or less affected, and it is, therefore, left to a majority or larger portion of the parties interested to decide whether the scheme should be accepted by them or not.

In reference, therefore, to the allegations made by the petitioners against the Bill and as it appeared nearly six weeks after its introduction into the Legislative Assembly, the petitioners had the power of taking steps to represent their interests before the Legislative Assembly of Nova Scotia, and as the same passed the Committees of both Houses and was amended in both, His Excellency was advised that no reason existed on these grounds for withholding his assent.

The point, therefore, for consideration, and which is one of some importance, is that raised by you, namely, that the Act dealt with a subject not within the jurisdiction of a Local Legislature, inasmuch as it dealt with "Bankruptcy and Insolvency" which are, by the British North America Act, 1867, reserved to the Parliament of Canada alone.

Upon this point the undersigned refers to the judgment of the Judicial Committee of the Privy Council, on the appeal of L'Union St. Jacques de Montréal *v.* Dame Julie Belisle, on appeal from the Court of Queen's Bench, for the Province of Quebec, Canada (appeal side), delivered 8th July, 1874.

In that case an Act was passed by the Legislature of the Province of Quebec, in reference to the Society of L'Union St. Jacques de Montréal, imposing a forced commutation of the existing rights of two widows, who, at the time when that Act was passed, were annuitants of the society under its rules.

The reason for that Act was, by its recitals, stated to be that the resources of the society had been considerably reduced, and encroachment made on its savings, and the balancing of receipts and expenses prevented, and that two out of the four widows of deceased members had agreed to allow their weekly and life benefits to be lessened, but that the other two refused so to do, and that it had been shown that the financial condition of the Association did not permit of its continuing to pay to the two widows their previous pensions, without entailing its own ruin.

The Judicial Committee of the Privy Council said: "Clearly this matter is private; clearly it is local, so far as locality is to be considered, because it is in the Province and in the City of Montreal, and unless, therefore, the general effect of that head of Section 92 is for this purpose qualified by something in Section 91, it is a matter not only within the competency, but within the exclusive competency of the Provincial Legislature."

The question then was, whether it was a matter coming under bankruptcy and insolvency, and the view taken by their Lordships in this respect is set out.

They further add that no general law in respect to bankruptcy and insolvency, covering particular associations or the society in question, is alleged ever to have been passed by the Dominion, and they add these words, viz.:—

"The fact that this particular society appears upon the face of the Provincial Act to have been in a state of embarrassment, and in such a financial condition that unless relieved by legislation, it might have been likely to come to ruin, does not prove that it was, in any legal sense, within the category of insolvency, and in point

of fact the whole tendency of the Act is to keep it out of that category, and not to bring it into it.

"The Act does not terminate the Company; it does not propose a final distribution of its assets on the footing of insolvency or bankruptcy; it does not wind it up.

"On the contrary, it contemplates its going on, and possibly at some future time recovering its prosperity, and then these creditors who seem on the face of the Act to be somewhat summarily interfered with, are to be re-instated.

"Their Lordships are clearly of opinion that this is not an Act relating to Bankruptcy and Insolvency."

His Excellency was therefore advised that the Bill reserved by you comes within the argument taken by their Lordships in the case of the Quebec Act, although in the Nova Scotia Bill no particular Company is named, yet it applied to any Railway Company within the legislative competence of the Nova Scotia Legislature in a state of embarrassment, and in such a financial condition that, unless relieved by legislation, it might have been likely to come to ruin. In point of fact, indeed, as was observed by their Lordships, the whole tendency of the reserved Bill was to keep it out of that category and not to bring it into it. The Bill did not terminate the Company; it did not propose a final distribution of its assets on the footing of Bankruptcy or Insolvency; it did not wind it up. On the contrary, its object was to ensure its going on and recovering its prosperity.

The Act itself seemed very reasonable. It propounded a scheme to be filed in the Supreme Court, and which, from the beginning to the end, is to be under the protection of the Court, and before which any sufficient objection may be heard. The interests of creditors, of preference shareholders and of ordinary shareholders are all protected. The three former by votes of three-fourths in value, and as to the latter, at an extraordinary general meeting.

The confirmation of the scheme depends upon the judgment of the Court, who has the power of hearing the Directors, any Creditors, Shareholders, or other parties whom the Court may think entitled to be heard, on the application.

Simple as it is, the details appeared calculated to affect the desired objects. It appears to furnish full machinery for enabling any Company, temporarily embarrassed, to provide means for continuing its operations and business.

Under all the circumstances, His Excellency was advised to assent to the Bill.

I have, &c.,

(Signed) R. W. SCOTT,

Secretary of State.

To His Honor
The Lieutenant-Governor of Nova Scotia.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th March, 1875.

Upon the undermentioned Act, passed by the Legislature of the Province of Nova Scotia, in the year 1874, the undersigned has the honor to report:—

Chapter 82.—"An Act to incorporate the Eastern Steamship Company."

This Act purports to incorporate certain persons under the above name for the purpose of running steamers on the coast of this Province and elsewhere.

There is no limit therefore to its operation within the Province of Nova Scotia; on the contrary, it speaks of "elsewhere."

The undersigned is of opinion, therefore, that the Company comes within one of the clauses mentioned in the British North America Act, 1867, Section 92, Subsection 10, Clause A.

The undersigned has the honor, therefore, to advise that this Act is not within the competence of a Local Legislature, and would recommend that this Act be disallowed by Your Excellency.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

Proclamation disallowing the above mentioned Act.

GOVERNMENT HOUSE, OTTAWA, Wednesday, 31st March, 1875.

Present;

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Nova Scotia, with the Legislative Council and Assembly of said Province, did, on the 7th day of May, 1874, pass an Act which has been transmitted, intituled, as follows, viz.: "An Act to incorporate the Eastern Steamship Company;"

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare the disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Nova Scotia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Nova Scotia, on the 7th day of May, 1874, intituled: "An Act to incorporate the Eastern Steamship Company," was received by me on the 22nd day of August, 1874.

Given under my hand and seal this thirty-first day of March, 1875.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th October, 1875.

With reference to the Act (Chap. 18), of the Nova Scotia Legislature to establish County Courts, passed on the 7th May, 1874, the undersigned begs to report that by the 27th Section of that Act the summary jurisdiction of the Supreme Court of Nova Scotia is abolished; by the 53rd Section the jurisdiction of the City Court of the City of Halifax in all cases of torts, and for forcible entry and detainer is abolished, and transferred to the County Court for District No. 1; by the 50th Section so much of the existing law as is inconsistent with the Act is repealed; and by the 57th Section it is provided that the Act shall not go into operation until brought into

force by proclamation of the Lieutenant-Governor in Council. During last Session of the Canadian Parliament a Bill was brought in by the Government to provide for the salaries of the Judges to be appointed under this Statute, but it was defeated in the Senate. The Nova Scotia Act has not yet been proclaimed, but the undersigned is led to believe that the question of bringing it into force immediately is under consideration. There are very grave difficulties in the way of appointing Judges, before Parliamentary provision is made for their salaries, and it is obviously the most satisfactory disposition of the matter, to postpone bringing the Act into operation until after the next Session of the Canadian Parliament, when it is to be expected this provision will be made. On the other hand, should the Act not be proclaimed earlier, and if the Judges are not appointed, it seems probable that there will be a failure of justice in many, cases owing to the abolition of the summary jurisdiction of the Supreme Court, and the non-erection of the substituted County Courts.

The undersigned suggests that it would be advisable to communicate with the Lieutenant-Governor of Nova Scotia suggesting the expediency, under the circumtances, of postponing until after next Session, the proclamation of the Act.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th October,* 1875.

On a Memorandum, dated 19th October, 1875, from the Hon. the Minister of Justice, reporting with reference to the Act of the Nova Scotia Legislature to establish County Courts, passed on the 7th May, 1874, that, by the 27th Section of that Act, the summary jurisdiction of the Supreme Court of Nova Scotia is abolished; that by the 55th Section the jurisdiction of the City Court of the City of Halifax in all cases of torts and for forcible entry and detainer is abolished and transferred to the County Court for District No 1; that, by the 56th Section, so much of the existing law as is inconsistent with the Act is repealed; and, by the 57th Section, it is provided that the Act shall not go into operation until brought into force by proclamation of the Lieutenant-Governor in Council.

That, during the last Session of the Canadian Parliament, a Bill was brought in by the Government to provide for the salaries of the Judges to be appointed under this Statute, but it was defeated in the Senate.

That the Nova Scotia Act has not yet been proclaimed, but, that he is led to believe that the question of bringing it into force immediately is under consideration.

That there are very grave difficulties in the way of appointing Judges before Parliamentary provision is made for their salaries, and that it is obviously the most satisfactory disposition of the matter to postpone bringing the Act into operation until after the next Session of the Canadian Parliament, when, it is to be expected, this provision will be made.

That, on the other hand, should the Act be proclaimed earlier, if the Judges are not appointed, it seems probable that there will be a failure of justice in many cases, owing to the abolition of the summary jurisdiction of the Supreme Court and the non-erection of the substituted County Courts.

The Minister suggests that it would be advisable to communicate with the Lieutenant-Governor of Nova Scotia, suggesting the expediency, under the circumstances of postponing, until after next Session, the proclamation of the Act.

The Committee concur in the foregoing Report, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th March, 1875.

Upon the undermentioned Acts passed by the Legislature of the Province of Nova Scotia in the year 1874, the undersigned has the honor to report :—

Chapter 14.—" An Act to amend the Chapter of the Revised Statutes ' Of Licenses for the sale of intoxicating Liquors.' "

Chap. 15.—" An Act to prevent the sale of intoxicating Liquors at Camp Meetings."

These Acts purport to restrain and prohibit, under certain circumstances, the sale of intoxicating liquors.

However desirable the objects sought to be attained may be, the undersigned suggests for the consideration of the Lieutenant-Governor of the Province of Nova Scotia, whether the same may not be in restraint of trade.

The undersigned recommend that Your Excellency do not exercise the right of disallowance in respect of these two Acts, but that the above suggestion be made to the Lieutenant-Governor.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER.
Minister of Justice.

NOTE.—No Order in Council was passed upon the above Report.

NOVA SCOTIA, 38TH VICTORIA, 1875.

1ST SESSION—26TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th September, 1876.

With reference to the Acts passed by the Legislature of Nova Scotia, in the first Session of the 26th Assembly, 38 Vic., 1875, the undersigned begs to recommend that the power of disallowance be not exercised as to the following Acts :—

1 to 24 inclusive, 26 to 28 inclusive, 30 to 65 inclusive, 67 to 74 inclusive, 80 to 88 inclusive, 93 to 116 inclusive.

With reference to Chapter 25, intituled : " An Act for amending the law relating to Election Petitions, and for providing more effectually for the prevention of corrupt practices at Elections," the 74th Section enacts that no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer

will tend to criminate himself, shall be allowed in any criminal proceeding against such person, other than an indictment for perjury, if the Judge gives a certificate.

This provision would be *ultra vires* with respect, at any rate, to any criminal proceedings taken under the law of Canada. Nevertheless, the undersigned, while recommending that the attention of the Lieutenant-Governor should be called to this objection, with a view to considering the propriety of proposing an amendment, does not recommend that the power of disallowance should be exercised.

With reference to Chapter 29, intituled: "An Act to continue the Acts of Incorporation of Wharf, Pier, and Breakwater Companies," this Act provides that all Acts of incorporation of Wharf, Pier, or Breakwater Companies, whether temporary or perpetual, heretofore passed by the Legislature of Nova Scotia, and now in force, are hereby continued and made and declared perpetual. The 3rd Section provides, that nothing herein shall be construed to contravene or conflict with the British North America Act, 1867, or with any legislation (*intra vires*) of the Parliament of Canada." This Act does not appear free from objection. Presumably some of the Wharf, Pier and Breakwater Companies, whose charters were in force at the time of its passing, had been given powers which could not be continued by the Legislature of Nova Scotia, and could be dealt with only by the Parliament of Canada. However, to the extent to which the first section of the Act might appear to continue such powers, it is of course void, and considering this in connection with the character of these Companies, and with the third section limiting the construction of the Act, and preventing the Act from being construed so as to conflict with the British North America Act or any Legislation of the Parliament of Canada, it is not likely that much confusion or embarrassment may result from the Act being left to its operation. The undersigned, upon the whole, while recommending that the attention of the Lieutenant-Governor of Nova Scotia should be called to the difficulty, does not recommend that the power of disallowance should be exercised.

With reference to Chapter 66, "An Act to incorporate the Louisburg Extension Railway Company;" the 11th Section gives power to the Company to construct a railway over, under and across any harbor, &c. The 18th Section provides that nothing in the Act contained shall be construed to authorize or empower the Company to interrupt, hinder or prevent the navigation of any navigable river or other navigable water. It is possible that this exception is not quite as wide as it ought to be, having regard to the rights in respect of public harbors which are vested in Canada, but the Act will of course be inoperative to give powers to interfere with these rights, and upon the whole the undersigned does not recommend that it should be disallowed.

Chapter 75. "An Act to incorporate the Protheroe Coal and Railway Company." The 12th Section is open to observations such as those which have been made with reference to Chapter 66; but the proviso in the 16th Section is the same as the restrictive clause in that Act, and the undersigned does not recommend the disallowance of the Statute.

Chapter 76. "An Act to incorporate the Globe Marine Insurance Company." By the 11th Section of this Act "the Company may, at their office in Halifax, commence and conduct the business of Marine Insurance on steamships, sailing vessels and freights only, and may transact the business of a Marine Insurance Broker, Insurer or Underwriter."

Chapter 77. "An Act to continue and amend the Acts relating to the Nova Scotia Marine Insurance Company."

By this Act the original Act of Incorporation, being Chapter 20 of the Acts of 1837, as amended, is continued and made perpetual. The original Act, which is to be found at p. 235 of the Private and Local Acts of Nova Scotia, appears to have been passed in the year 1835, and, by the 20th Section, the Company is authorized to "commence and carry on, in their office in Halifax, or elsewhere in this Province, the business and operations of Marine Insurance, in all its branches, and shall and may receive and accept orders, directions and proposals for insurance, and make insurance upon all ships and vessels whatsoever, in port or at sea, or for or upon

any voyage or adventures whatsoever, and for and upon all goods, merchandise, property and effects whatsoever; and all money, coins, bullion or other valuable things whatsoever in and upon any such ship, laden or to be laden, and in and upon the freight of goods or merchandise carried or to be carried upon any ship or vessel, or on any voyage whatsoever; and also upon moneys lent or advanced upon bottomry or respondentia, and upon expected profits and commissions or adventures by sea, and upon all subjects of marine insurance whatsoever; and the same shall and may insure against all losses, perils and dangers whatsoever of the seas, fire, enemies, thieves and other risks of the seas and navigation usually insured against by underwriters, and either for or during the respective voyage, or any time or times whatsoever."

These powers do not appear to be limited by any of the amending Acts.

Chapter 78. "An Act to incorporate the Maitland Marine Insurance Company."

By the 11th Section of this Act, the Directors of the Company "may, at their office in Maitland, commence and conduct the business of Marine Insurance in all its branches, and may make insurance upon all subjects of Marine Insurance whatsoever, and may transact all matters relating to the business of a Marine Insurance Broker, Insurer or Underwriter.

Chapter 79. "An Act relating to the Union Marine Insurance Company of Nova Scotia."

By this Act, the Act incorporating this Company, as altered and amended, is continued in force for twenty years. The Act of Incorporation was passed on the 20th March, 1838, and is to be found at page 253 of the Private and Local Acts of Nova Scotia. By the 21st Section the Company may "commence and carry on in their office in Halifax, or elsewhere in this Province, the business and operations of Marine Insurance in all its branches, and shall and may receive and accept orders, directions and proposals for insurance, and make insurance upon all ships and vessels whatsoever in port or at sea, or for and upon any voyages or adventures whatsoever, or for and upon all goods, merchandise, property and effects whatsoever, and for and upon all money, coins, bullion or other valuable things whatsoever, in and upon any such ship laden or to be laden, and in and upon the freight of goods or merchandise carried or to be carried upon any ship or vessel or on any voyage whatsoever."

With reference to these Acts, Chapters 76, 77, 78 and 79, the undersigned would refer to his approved Report of 27th October, 1875, upon the Prince Edward Island Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island, which Report contains the following language:

"It appears, to the undersigned, that, under the express language of this clause, it is attempted to give the Company power to do an insurance business with persons not residents of the Province in respect of risks on vessels not touching Provincial ports, in a word, to do a universal insurance business. The power of Provincial Legislatures to incorporate insurance companies is to be found, if at all, in the 11th Sub-section of the 92nd Section, British North America Act, 1867, which gives to the Local Legislature authority to make laws for the incorporation of Companies with Provincial objects. It appears to the undersigned, that the powers attempted to be conferred on this Company are beyond any fair construction of these words."

The undersigned would also refer to his approved Report of 16th November, 1875, with reference to the Ontario Act to incorporate the Canada Fire and Marine Insurance Company, which Report contains the following language:—

"The powers professed to be conferred by this Act appear, to the undersigned, too wide. It authorizes the Company to effect policies of fire insurance with any persons or bodies corporate and to make contracts of marine insurance with any persons in respect to losses to vessels navigating any waters from or to any ports. It is not provided that the chief place of business shall be in the Province. Power is given to comply with the laws of other Provinces or States wherein the Company may carry on business, and the word "Canada" introduced into the name, is of itself indicative of more than Provincial power. On the 31st March, 1875, Chapter 82, of the Statutes of Nova Scotia for 1874, was disallowed upon grounds applicable to this Act."

Much of the language quoted appears to apply to all the Acts now under consideration. Chapter 76 indeed does not expressly authorize the doing of a universal insurance business, though its language is wide enough for such an interpretation, but the corporations created or perpetuated by the remaining Acts are expressly authorized to do a universal marine insurance business.

The undersigned recommends that the attention of the Lieutenant-Governor of Nova Scotia should be called to the suggested difficulties, with an intimation that, subject to such observations as he may make, it would seem that these Acts cannot be left to their operation.

Chapter 89. "An Act to incorporate the Colchester Lumber Driving and Manufacturing Company." This Act authorizes the Company to build dams, sluices and breakwaters, and otherwise improve Little River, in Brookfield, in the County of Colchester, and it tributaries, so as to make the same navigable for logs, timber and lumber, and to levy tolls for conveying logs, timber and lumber down such river and its tributaries, and it provides for a lien on all logs, &c., passing through the dams, &c., and for the enforcement of such lien. The 6th Section provides that nothing in the Act contained shall be construed to authorize the Company to interrupt, hinder, or prevent the navigation of any navigable river or other navigable waters.

Chapter 90. "An Act to incorporate the St. Margaret's Bay Lumber and Timber Driving Company." This Act gives substantially the same powers with reference to the Ingraham and Indian Rivers and their tributaries.

Chapter 91. "An Act to incorporate the Cumberland Driving Company."

This Act gives substantially the same powers with reference to the Moose River, Apple River, Half-Way River and River Hebert, save that the power to levy tolls is confined to levying tolls for conveying logs, &c., down such of the rivers as the Company shall have so improved as to make navigable for logs, timber and lumber.

Chapter 92. "An Act to incorporate the Liscomb River Driving Company." This Act gives substantially like powers as are given by Chapters 89 and 90 with reference to the East and West Branches of the Liscomb River and their tributaries, but it does not contain the restrictive clause providing against the Company being authorized or empowered to interrupt the navigation of any navigable water.

The undersigned is not aware whether any of the rivers referred to in these Acts is, to any extent, at present navigable. If so, none of the Acts can be said to be wholly unobjectionable, as they appear to authorize the Companies to levy tolls, not merely for the conveyance of the logs through the improvement, but also for their passage down those parts of the rivers which are navigable. It is further to be observed that it might become an important question whether works of this kind should be constructed under local authority in important navigable rivers, the navigation of which might, by a small expenditure, be improved. Chapter 92 is open to the additional objection that the restrictive clause is not inserted. It is presumed that none of these rivers are of great importance, and that no serious embarrassment will result from the operations of the Companies. Of course they do not, in law, acquire by these local Acts any power to interfere with the free navigation of such parts of the river as are navigable, and, upon the whole, the undersigned submits that notwithstanding the difficulties to which he has referred, they may be left to their operation, the attention of the Lieutenant-Governor being called to the difficulty.

(Signed) EDWARD BLAKE.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 19th September*, 1876.

The Committee of Council have had under consideration the Memorandum hereunto annexed, from the Hon. the Minister of Justice, having reference to certain Acts passed by the Legislature of Nova Scotia, in the 1st Session of the 27th Assembly, 38 Vic., 1875, and recommending that the power of disallowance be not

exercised as regards certain of the said Acts therein mentioned, and submitting observations respecting certain other of the said Acts to which he recommends that the attention of the Lieutenant-Governor of Nova Scotia be called.

The Committee advise that the Acts reported by the Minister of Justice to be unobjectionable, be left to their operation, and that as regards the other Acts alluded to, a copy of the said Memorandum, in which the Committee concur, be transmitted to the Lieutenant-Governor of Nova Scotia.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Archibald to the Secretary of State of Canada.

GOVERNMENT HOUSE, HALIFAX, N. S., 7th October, 1876.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 21st of September last, enclosing copy of an Order of the Honorable the Deputy of the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, on the subject of the Acts passed by the Legislature of the Province of Nova Scotia, in the Session of 1875, and, in reply, beg to say that I have called the attention of my Cabinet to the objections made by the Honorable the Minister of Justice to certain clauses in the Acts specified in his Memorandum, as to which, notwithstanding his objections, he does not recommend the Acts to be disallowed.

In reference to several Acts referring to Life and Marine Insurance, I have asked the Attorney-General to let me know whether there is, in his judgment, any way by which the objections made by the Honorable the Minister of Justice to these Acts, can be met, without preventing their going into operation.

So soon as I receive his answer I shall communicate the result for the consideration of the Honorable the Minister of Justice.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Honorable
The Secretary of State, Ottawa.

Mr. Secretary Hill to the Hon. the Minister of Justice.

PROVINCIAL SECRETARY'S OFFICE, HALIFAX, N.S., 18th October, 1876.

SIR,—I have the honor to acknowledge the receipt from His Honor the Lieutenant-Governor, of a copy of a Despatch from the Hon. the Secretary of State, under date 21st September, enclosing copy of an Order of the Hon. the Deputy of the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, on the subject of the Acts passed by the Legislature of Nova Scotia in the 1st Session of the 27th Assembly, 38 Victoria, 1875.

I have carefully read the Order and Report; and with regard more particularly to the Act incorporating Marine Insurance Companies, or amending such Acts previously enacted, I would beg to call your attention to the fact, that a period of eighteen months has elapsed since the Acts referred to were passed, and that many liabilities, amounting in the aggregate to a very large sum, have been entered upon by the several companies supposed to be empowered to do so. Were the Acts now to be disallowed almost endless confusion and embarrassment would result, which it would be desirable to avoid if possible.

The reasons given in your Report for believing that the powers assumed to be conferred on the several Companies are *ultra vires* of the Provincial Legislature, are doubtless very strong; and it appears to me that in such cases the only remedy will be for the Dominion Parliament to pass an Act ratifying and confirming the provisions of the Local Acts, at its next Session.

Should you approve of this course, I would further suggest that the Acts be not officially published as disallowed; so long a time having elapsed since the passing of the Acts, no great injury can occur from the continuance of the same state of things until Parliament meets.

I do not see that the Legislature of this Province can remedy the defects in the Acts, for the same reason which would render the Acts already passed inoperative. It appears to me, therefore, that the power to apply a remedy lies in the Legislature of the Dominion alone; power to issue policies on voyages to or from the Province only would so restrict the business as to render it not worth undertaking.

I have, &c.,

(Signed) P. CARTERET HILL.

The Hon. EDWARD BLAKE,
Minister of Justice.

Telegram from Mr. Secretary Scott to the Lieutenant-Governor of Nova Scotia.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 21st October, 1876.

To Lieutenant-Governor ARCHIBALD, Halifax, Nova Scotia.

Letter of Provincial Secretary received. Unless your Government undertakes, by telegraph, on Monday, to promote amendatory Legislation next Session concerning Insurance Acts, they will be disallowed; time expires next week. Companies interested must apply to Parliament in usual way if they desire Canadian legislation; same course adopted with Ontario Company last Session.

(Signed) R. W. SCOTT,
Secretary of State.

Telegram in Reply from the Lieutenant-Governor of Nova Scotia to the Honorable the Secretary of State.

HALIFAX, 23rd October, 1876.

To the Hon. Secretary of State.

I have submitted your message to the Government, who undertake at next meeting of the Assembly to promote Legislation amending the Insurance Acts in the sense indicated in the memo. of the Minister of Justice, and in such form as he shall suggest, and Companies requiring Canadian Legislation will apply for charters at Ottawa.

(Signed) A. G. ARCHIBALD.
Lieutenant-Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th October, 1876.

The undersigned calls attention to the Report of the Minister of Justice of the 15th September last, with reference to the Acts passed by the Legislature of Nova

Scotia, in the 1st Session of the 26th Assembly, 38th Victoria (1875), with special reference to,

Chapter 76. An Act to incorporate the Globe Marine Insurance Company.

Chapter 77. An Act to continue and amend the Acts relating to the Nova Scotia Marine Insurance Company.

Chapter 78. An Act to incorporate the Maitland Marine Insurance Company.

Chapter 79. An Act relating to the Union Marine Insurance Company of Nova Scotia.

In that Report the Minister recommended that the attention of the Lieutenant-Governor of Nova Scotia should be called to the difficulties suggested by him, with an intimation that, subject to such observations as he might make, it would seem that these Acts should not be left to their operation.

In reply to the communication from the Secretary of State of the Lieutenant-Governor, as suggested in the Report, the Provincial Secretary of Nova Scotia communicated with the Minister of Justice by letter, dated 18th October instant. In reply, a telegram was sent by the Secretary of State to the Lieutenant-Governor, in the following words:—

"Letter of Provincial Secretary received. Unless your Government undertakes, by telegraph, on Monday, to promote amendatory Legislation next Session, concerning Insurance Acts, they will be disallowed. Time expires next week. Companies interested must apply to Parliament in usual way if they desire Canadian Legislation. Same course adopted with Ontario Company last Session."

In reply to that telegram, the Secretary of State, on the 23rd instant, received from the Lieutenant-Governor, a telegraphic despatch, as follows:—

"Have submitted your message to the Government, who undertake at next meeting of Assembly to promote Legislation, amending the Insurance Acts in the sense indicated in the Memorandum of the Minister of Justice, and in such form as he shall suggest, and Companies requiring Canadian Legislation will apply for charters at Ottawa.

The undersigned recommends that, on the representations and assurances given by the Government of Nova Scotia, with reference to the four Acts hereinbefore alluded to, that the right of disallowance be not exercised in respect of such Acts.

(Signed) R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th October,* 1876.

The Committee have had before them a Report, dated 24th October, 1876, from the Hon. the Minister of Justice, having reference to certain Acts passed by the Legislature of the Province of Nova Scotia, in the 1st Session of the 27th Assembly, 1875 (38th Victoria), Chaptered 76, 77, 78 and 79 and relating to Insurance Companies, and, for the reasons stated in the said Report, they advise that the right of disallowance be not exercised in respect of the said Acts.

Certified.
(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Archibald to the Hon. the Secretary of State of Canada.

GOVERNMENT HOUSE, HALIFAX, N. S., 23rd October, 1876.

SIR,—Adverting to your Despatch No. $\frac{2001}{1035}$, of 1875, under date of the 21st ultimo, on the subject of the Report of the Honorable the Minister of Justice on certain Acts

of the Legislature of Nova Scotia, passed in the year 1875, of which, and of the Order in Council confirming the same, copies were enclosed, and to my reply thereto, under date of the 7th instant, in which I stated that I had called the attention of my Government to the objections to said Acts made by the Honorable the Minister of Justice.

I have now the honor to inform you, that I learn from the Honorable the Provincial Secretary that on the 18th instant, he addressed a letter to the Honorable the Minister of Justice in reference to various points contained in the Memorandum in question, and that he has received some telegraphic despatches from the Minister on the subject, urging prompt action on the part of the Local Government.

As this correspondence did not pass through the regular official channel, I have directed Mr. Hill to furnish me a copy of his letter to the Minister, which I enclose hereafter, in order that the correspondence may be placed on record.

I have also the honor to acknowledge the receipt of your telegraphic message of the 21st instant, in reference to the subject-matter of the Memorandum and Order in Council, informing me that unless my Government undertook, by telegraph, on the following Monday, to promote Legislation concerning Insurance Acts, they would be disallowed.

Immediately on receipt of your message on Saturday last, I placed it in the hands of the Premier of the Province, and to-day the Government came to the conclusion to promote, at the next Session of the Assembly, such amendments to the Insurance Acts referred to in the Memorandum, as would remove the objections entertained by the Honorable the Minister of Justice, and bring their provisions within the scope of the jurisdiction of the Local Legislature, as interpreted by the Minister.

I accordingly despatched to you this morning a telegraphic message in that sense, and for fear of any errors in transmission, now have the honor to enclose you a copy of the same.

It is the intention, I understand, of the Companies incorporated under the Act to which the Memorandum refers, to apply for Incorporation to the Legislature at Ottawa.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD,
Lieutenant-Governor.

Lieutenant-Governor Archibald to the Secretary of State of Canada.

GOVERNMENT HOUSE, HALIFAX, N.S., 8th November, 1876.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. $\frac{2245}{1035}$, of 1875, under date of the 30th ultimo, referring to the correspondence by telegraph, and otherwise, between your Department and myself, on the subject of certain Acts of the Legislature of Nova Scotia passed in the Session of 1875, incorporating Insurance Companies, with its enclosures of a copy of a memo. of the Acting Minister of Justice made subsequently to such correspondence, and referring thereto on the subject of the said Acts, and of the Order of His Excellency the Governor General in Council in reference to said memo., in which it is stated that the Crown, for the reasons set forth, will not exercise the right of disallowance of said Acts.

I have now the honor to acquaint you, for the information of His Excellency the Governor General, that I have placed copies of the whole of these documents in the hands of my Ministry, who will be prepared to promote such Legislation at the next Session of the Assembly as will remove the objections made by the Honorable the Minister of Justice to the Acts in question.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD.
Lieutenant-Governor.

The Honorable the Secretary of State,
Ottawa.

NOVA SCOTIA, 39TH VICTORIA, 1876.

2ND SESSION,—26TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th November, 1876.

With reference to the Statutes of the Legislature of Nova Scotia, passed in the year 1876, 39th Victoria, the undersigned begs to report as follows :—

Chapters 2 to 21, inclusive, 23, 25 to 41 inclusive, 44, 45, 46, 47, 48, 50 to 87, inclusive, 79 to 91 inclusive, 93, 94, 95, 96, 97, 98 and 99 do not appear to call for special observation, as for the exercise of the power of disallowance.

Chapter 1—"An Act to alter and amend Chapter 75 of the Revised Statutes of Licenses for the sale of Intoxicating Liquors, and the Acts in amendment thereof."

This Act contains some provisions restrictive of the sale of intoxicating liquors. Similar legislation has been in many cases left to its operation, and the same course is recommended on this occasion.

In the Act the word "offence" is several times used to describe breaches of the law. It has been remarked, on former occasions, that this word is hardly a proper description of a breach of the Provincial law, being rather descriptive of a Criminal Act.

The attention of the Lieutenant-Governor may be directed to the suggestion.

Chapter 22—"An Act respecting the Legislature of Nova Scotia."

By the 2nd Section of this Act the Legislative Council of Nova Scotia, and its Committees and Members respectively, are given such and the like privileges, immunities and powers as are for the time enjoyed by the Senate of Canada, its Committees and Members; and the House of Assembly of Nova Scotia and the Committees and Members thereof respectively, are given the like privileges, immunities and powers as are for the time enjoyed by the House of Commons of Canada, and its Committees and Members.

The Senate and House of Commons enjoy all the privileges, immunities and powers of the House of Commons of the United Kingdom.

Acts purporting to confer upon the Legislatures of Ontario and Quebec such privileges, immunities and powers were objected to, and in the case of Ontario the Act was disallowed, while in that of Quebec it was repealed.

The undersigned begs to refer to the Reports upon these Acts, inasmuch as the 2nd Section of the Act under consideration professes to give, in the case of Nova Scotia, the powers which it was decided that the Legislatures of Ontario and Quebec should not assume.

It is true that in the 23rd Section it is provided that nothing in the Act shall be construed to contravene or conflict with any legislation *ultra vires* of the Parliament of Canada, or with any enactment of the Imperial Parliament in force in the Province, but by the 2nd Section there is an express assertion of a right to legislate in excess of what has been decided to be the legislative power of the Province.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to the objection with a view to the repeal of this section before the time within which the Act can be disallowed shall have expired. With reference to the other provisions of this Act, the bulk of them are contained in the Act of the Province of Ontario upon the same subject, which has been left to its operation,

The undersigned refers to his Report upon that Act, and for the reasons therein given he does not recommend interference with such of the provisions of this Statute as are therein contained, but he observes amongst the supplementary provisions, some to which he is bound to call attention. Among the prohibited matters which are to be deemed infractions of this Act, and which are to be adjudged on and punished by the House is Section 14, Sub section 3, the refusal of failure of any member or officer of either House, or other person to obey any rule, order or resolution of such House. Whatever view may be taken of so much of this sub-section as applies to members or officers of the House, it seems obvious that its application to the subject in general would be to put the subject at the mercy of either House, no matter what might be the nature of the rule, order or resolution which it passed.

The last paragraph of the 17th Section provides that all rules of either House not inconsistent with the Act shall have the force of law until altered, amended or repealed by such House.

These provisions give, in the opinion of the undersigned, objectionable powers to each House, and he recommends that the attention of the Lieutenant-Governor should be called to them with a view to their being repealed before the time within which the question of disallowance may be determined.

Chapter 24.—"An Act to amend Chapter 25 of the Revised Statutes, 4th Series, of the Church of England."

This Act repeals the Act cited in the title which was a Statute containing various provisions for the management of the affairs of members of the Church of England.

The substituted sections are in the main similar to those of the repealed Act, but several provisions are introduced, among which are some giving greater powers to the lay members of the Church.

It is to be presumed as well from the constitution of the church as the character of these provisions, that they are based upon and carry out the views of its Synod.

With reference to some of them, had the legislation been entirely novel, it might be necessary to consider how far it was proper under our political system to make such enactments, but the circumstances to which the undersigned has referred, lead him to the conclusion that this is not a question which can be fitly raised with reference to this Act, and he recommends that it be left to its operation.

Chapter 42.—"An Act respecting the Lower Chezzetcook Dyke, in the County of Halifax."

The 4th Section of this Act uses the term "offence," the objection to which has already been the subject of remark.

Chapter 43.—"An Act to provide for supplying the Town of Dartmouth with water."

The 21st Section gives power to the Council to make By-laws, &c., amongst other things, to prevent frauds being practiced, and under it the observance of the By-laws, &c., may be enforced by attaching penalties not exceeding forty dollars or three months' imprisonment at hard labor in the County Gaol.

The wording of the clause is wide enough to embrace breaches of the Criminal Law, and the power of the Provincial Legislature to inflict a punishment of imprisonment at hard labor may be questioned.

The attention of the Lieutenant-Governor should be called to this section with a view to the amendment of the Act.

Chapter 49.—"An Act to amend the Act to incorporate the Town of Truro."

Sections 8 and 10.—It may be questioned whether some of the provisions of these sections do not trench upon the Criminal Law and procedure, but the undersigned does not recommend that the Act be disallowed on that ground.

Chapter 88.—"An Act to amend the Act to incorporate the Colchester Lumber Driving and Manufacturing Company."

The undersigned refers in connection with this Act to his observations made upon the original Act.

Chapter 92.—"An Act to incorporate the Nova Scotia Fishing Company, Limited."

By this Act certain persons are constituted a body corporate for the purpose of fishing, and for acquiring, equipping and managing boats and vessels and other property, and conducting all necessary business in connection with the same.

There is no provision whatever as to the place or places at which the business is to be carried on, or as to the range of the powers of the Company, which therefore may, under the unlimited language of the Act, do a business beyond the range permissible to a Company incorporated under a Provincial Statute.

The attention of the Lieutenant-Governor should be called to this objection with a view to the amendment of the Act.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 16*th November*, 1876.

The Committee of Council have had under consideration the Report dated 13th November, 1876, from the Hon. the Minister of Justice, with reference to the Statutes of the Legislature of the Province of Nova Scotia, passed in the year 1876, 39th Victoria, and they concur in the observations and suggestions therein submitted, and recommend that the same be approved and acted on.

Certified.
(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Archibald to the Secretary of State of Canada.

GOVERNMENT HOUSE, HALIFAX, November, 1876.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. $\frac{2409}{1041}$, under date of the 20th instant, transmitting, for the information of my Government, a copy of an Order of His Excellency the Governor General in Council, and of the Honorable the Minister of Justice therein referred to, on the subject of the Legislation of the Province of Nova Scotia, passed in the year 1876.

In reply, I have the honor to state that I have brought the several objections, taken by the Honorable the Minister of Justice, to the notice of my Cabinet, with a view to such action as may be required in the same.

As regards the expressions and phrases in some of the Acts, which, though considered objectionable by the Minister of Justice, are not assumed to be of sufficient importance to induce him to recommend a disallowance of the Acts containing them, I shall endeavor to prevent the recurrence, in future Legislation, of expressions open to the same objections.

In reference to Chapter 22, and to the objections to the 2nd Section thereof, which confers certain powers on the Legislative Council, its Committees and Members, and on the Assembly, its Committees and Members, the Honorable the Minister of Justice refers to the Report made by him on similar provisions in an Act of Ontario, which he recommended to be disallowed, and in an Act of Quebec which was repealed, as containing the reasons for his objections to the section in question. My Government, being anxious to be informed of the precise grounds and extent of the objections to this Legislation, would be glad to be furnished with copies of the Reports to which the Minister refers. I shall be obliged, therefore, if you will give directions to have a copy of the same transmitted to me.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD.
Lieutenant-Governor.

The Honorable the Secretary of State,
Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th December, 1876.

Upon the letter of the Lieutenant-Governor of Nova Scotia of November, 1876, with reference to the objections taken to certain portions of Chapter 22, of the Acts of the Legislature of Nova Scotia, 1876, I recommend that the Lieutenant-Governor should be referred to the Return in the Journals of the House of Commons for the year 1870; containing the correspondence with reference to Acts upon the same subject passed by the Legislatures of Ontario and Quebec.

It should be remarked that the observations on these Acts were not as the Lieutenant-Governor supposes, made by me, but by a previous Minister of Justice, and that I have, since making my Report ascertained that the Act of Quebec, which I supposed to have been repealed, was in fact, disallowed.

I recommend that a copy of my Report of the 13th October, 1876, upon the recent Act of the Legislature of Ontario on a similar subject, be, in accordance with the request of the Lieutenant-Governor, transmitted to him for the information of his Government.

(Signed) EDWARD BLAKE,
Minister of Justice.

The Secretary of State to Lieutenant-Governor Archibald.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 13th December, 1876.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. 51, of the ultimo, and in reference to the request therein contained that you may be furnished, for the information of your Government, with copies of the Reports of the Minister of Justice, referred to in my communication of the 10th, ult., upon which Statutes passed by the Legislatures of Ontario and Quebec, relative to the privileges and immunities of the Members of the Legislatures of those Province, were said to have been disallowed or repealed, I have to refer you to the Return in the Journals of the House of Commons, for the year 1870, containing the correspondence with reference to those Acts.

I have to remark that the observations on these Acts were not, as you suppose, made by the present, but by the previous Minister of Justice, and that it has been ascertained, since the date of the Report of the Minister of Justice, of which a copy was enclosed to you in my letter of the 20th ult., that the Act of Quebec, which was supposed to have been repealed, was in fact disallowed.

I transmit to you, herewith, in accordance with request, an extract from a Report of the Minister of Justice, dated the 13th October last, upon the recent Act of Ontario on a similar subject, for the information of your Government.

I have, &c.,
(Signed) R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of Nova Scotia.

EXTRACT *from a Report of the Hon. the Minister of Justice, dated 13th October*, 1876.

Chapter 9.—"An Act respecting the Legislative Assembly."

This Act contains various clauses conferring privileges upon the Assembly and its Members.

The exact range of the powers of Local Legislatures in this particular has been the subject of discussion in more than one case. Besides other clauses open to

question the 11th Section provides that the Assembly shall have all the rights and privileges of a Court of Record for the purpose of summarily enquiring into and punishing as breaches of privilege or as contempt of Court (without prejudice to the liability of the offenders to prosecution and punished criminally or otherwise according to law independently of the Act) several acts, matters and things, amongst them are assaults on Members of the Assembly, not merely during the Session, but also for twenty days before and after the same, giving false evidence before the Assembly, or a Committee thereof presenting to the Assembly forged or falsified documents with an intent to deceive, forging, falsifying, unlawfully altering papers and certain other matters which appear to be clearly within the Criminal Law. The section declares that the Assembly possesses the power and jurisdiction to provide by Statute, as may be necessary or expedient, for enquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution the punishments thereof provided by the Act.

The 12th Section provides that any person guilty shall be liable, in addition to any other penalty or punishment to which he is by law subject, to imprisonment for such time, during the Session of the Legislative Assembly then being held, as may be determined by the Legislative Assembly.

The 13th Section provides that if any person is declared to be guilty of contempt for any of the acts, matters and things in Section 11, set forth, is directed to be taken into custody or to be imprisoned, the Speaker shall issue his warrant to the Sergeant-at-Arms attending the House, or to the Keeper or Governor of the Common Gaol in County of York, to take such person into custody, and to keep and detain him in his custody in accordance with the order of the Assembly.

The 14th Section declares that the determination of the Assembly upon any proceeding under the Act within the authority of the Province, shall be final and conclusive.

It appears to the undersigned that several of these provisions are open to very serious question, as being *ultra vires* of a Local Legislature, but almost all of them are contained in an Act of the Legislature of Quebec, upon the same subject, which was left to its operation.

There are, indeed, some new provisions, but it would not be advisable upon the principle upon which the Quebec Act was allowed to advise the disallowance of this Act by reason of the insertion of these provisions, and the undersigned feels bound to recommend that, following the precedent referred to, the Act should be left to its operation, it being quite possible for those who may object to its constitutionalty to raise their objections in the Courts.

NOVA SCOTIA, 40TH VICTORIA, 1877.

3RD SESSION—26TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th March, 1878.

I beg to report upon the Acts of the Legislature of the Province of Nova Scotia passed in the fortieth year of Her Majesty's reign (1877), received by the Secretary of State, on the 10th day of July, 1877, as follows :—

Cap. 1.—"An Act to empower the Lieutenant-Governor of the Province, in Council, to alter and change the Great Seal of the Province from time to time."

Cap. 2.—"An Act to ratify and confirm certain Acts and proceedings heretofore had and done under the Great Seal of the Province."

Cap. 3.—"An Act to provide for the transfer of the duties of Commissioner of Crown Lands to the Attorney-General."

Cap. 4.—"An Act to amend and repeal certain enactments of the Legislature of Nova Scotia."

Cap. 5.—"An Act to amend Cap. 94 of the Revised Statutes of Pleadings and Practice in the Supreme Court."

Cap. 6.—"An Act to amend an Act to establish County Courts."

Cap. 7.—"An Act to amend Cap. 104 of the Revised Statutes of the sale of Lands under Execution."

Cap. 8.—"An Act to amend Cap. 91 of the Revised Statutes of the jurisdiction of Justices of the Peace in civil cases."

Cap. 9.—"An Act to amend Cap. 129 of the Revised Statutes, Third Series, of Stipendiary or Police Magistrates."

Cap. 10.—"An Act to further amend Cap. 92 of the Revised Statutes of Juries and the Acts in amendment thereof."

Cap. 11.—"An Act to legalize Jury Lists and Panels for the present year."

Cap. 12.—"An Act to legalize Assessment Rolls and Revisors' Lists for the present year."

Cap. 13.—"An Act to further alter and amend Cap. 32 of the Revised Statutes of Public Instruction and the Acts in amendment thereof."

Cap. 14.—"An Act to amend Cap. 28 of the Acts of 1876, intituled: 'An Act to establish a Provincial University.'"

Cap. 15.—"An Act to amend Cap. 35 of the Revised Statutes of the maintenance of Bastard Children."

Cap. 16.—"An Act to repeal Part Second of Cap. 11 of the Revised Statutes of Free Grants and Homesteads."

Cap. 17.—"An Act to amend Cap. 36 of the Revised Statutes of Lunatics and the Custody and Estates of Lunatics."

Cap. 18.—"An Act to amend Cap. 75 of the Revised Statutes of Licenses for the Sale of Intoxicating Liquors."

Cap. 19.—"An Act to enable Counties or Districts to borrow money for the erection of Industrial and Agricultural Exhibition Buildings."

Cap. 20.—"An Act to amend Cap. 40 of the Revised Statutes of Commissioners of Sewers and of Dykes and Marsh Lands."

Cap. 21.—"An Act to amend Cap. 28 of the Revised Statutes of Practitioners in Medicine and Surgery."

Cap. 22.—"An Act to repeal Section 4, of Cap. 19, of the Revised Statutes of Coroners."

Cap. 23.—"An Act to amend Cap. 15 of the Revised Statutes of the Boundaries of Counties, Districts and Townships."

Cap. 24.—"An Act to alter and amend Cap. 34 of the Revised Statutes of Poor Districts."

To the above Acts there appears to be no objection. I recommend that they be left to their operation.

Cap. 25.—"An Act further to amend the laws for the preservation of useful Birds and Animals."

The subject matter of this Act comes, I think, within the Legislative authority of the Provincial Legislature, and is therefore free from objection so far as its constitutionality is concerned. Objection, however, has been made on behalf of the Officers of Her Majesty's Army stationed at Halifax to the provisions of Section 18, which declares that such Officers shall be entitled to the privileges of the game laws of the Province on payment of an annual fee of five dollars, &c. The ground of objection being, not that the fee is charged, but that a distinction has been made between the Officers and the inhabitants of the Province generally. The late Sir W. O'Grady Haly, General Commanding the Forces in B. N. A., addressed a communication on the subject to Her Majesty's Secretary of State for War, dated 15th October, 1877. This communication was transferred to the Secretary of State for the Colonies, who, on the 30th of November, 1877, transmitted the same to His Excellency the Governor General, and expressed the hope that the Provincial Government might, on further consideration of the matter, be disposed to recommend to the Legislature an amendment of the Act, so as to allow persons serving in Her Majesty's Army and Navy in the Province the same privileges as are granted to persons domiciled there. I recommend that copies of the communications referred to be transmitted to the Lieutenant-Governor of Nova Scotia, for the information of his Government, with the request that the hope expressed by Lord Carnarvon and above alluded to may be taken into their favorable consideration.*

Cap. 26.—"An Act to alter and amend Cap. 114 of the Revised Statutes, of Costs and Fees."

Cap. 27—"An Act to amend the Act further to encourage the building of Railways so far as relates to the road from Middleton to Lunenburg."

Cap. 28.—"An Act to guarantee interest on Fifty thousand pounds of the 'A' Debenture Stock of the Windsor and Annapolis Railway Company."

Cap. 29.—"An Act to authorize the issue of Provincial Debentures to the Western Counties Railway Company."

Cap. 30.—"An Act to continue and revive the provisions of certain Acts to encourage the building of certain Railways."

Cap. 31.—"An Act to amend Cap. 70, of the Revised Statutes, third series: 'Of Provincial Government Railways.'"

Cap. 32.—"An Act to provide for defraying certain expenses of the Civil Government of this Province."

Cap. 33.—"An Act to authorize the issue of New Debentures by the City of Halifax."

Cap 34.—"An Act to enable the City of Halifax to pay certain debts of the Citizens' Free Library."

Cap. 35.—"An Act to authorize the issue of New Debentures by the City of Halifax."

Cap. 36.—"An Act to authorize a loan for the City of Halifax."

Cap. 37.—"An Act to authorize the City of Halifax to assess for maintenance of the Public Gardens.

Cap. 38.—"An Act to enable the City of Halifax to borrow money for Sewerage purposes."

Cap. 39.—"An Act for the establishing of a High School and for other educational purposes in the City of Halifax."

Cap. 40.—"An Act to amend the Act entitled: 'An Act to incorporate the Town of Dartmouth.'"

Cap. 41.—"An Act to appoint Commissioners to re-appraise damages for Railway property in the County of Annapolis."

* NOTE.—For copies of this correspondence see pp. 385-389.

Cap. 42.—"An Act to provide for the payment of damages assessed for railway purposes in the County of Annapolis, and to appoint Assessors to assess such damages."

Cap. 43.—"An Act to prevent burials within the Town of Antigonish."

Cap. 44.—"An Act to legalize the appointment of Overseers of the Poor in the County of Antigonish for the present year."

Cap. 45.—"An Act to legalize the sale of the old Lock-up House and Gaol at North Sydney, in the County of Cape Breton."

Cap. 46.—"An Act to change the name of Acadia Mines, in the Township of Londonderry."

Cap. 47.—"An Act to amend an Act to authorize the sale of certain School Lands in the Town of Truro, and to appoint Trustees therefor."

Cap. 48.—"An Act to revive the Electoral District of the County of Colchester."

Cap. 49.—"An Act to enable the Trustees of Public Property for the County of Cumberland to lease the Amherst Court House Grounds."

Cap. 50.—"An Act to amend the Act to provide for the payment of the damages assessed for railroad purposes in the District of Digby, and to appoint Assessors to assess such damages."

Cap. 51.—"An Act to add a Polling District to the Township of Digby."

Cap. 52.—"An Act to add a Polling District in the County of Guysborough."

Cap. 53.—"An Act to establish a new Polling District in the County of Guysborough."

Cap. 54.—"An Act to amend Chapter 92 of the Revised Statutes, 'Of Juries,' so far as regards the District of St. Mary's."

Cap. 55.—"An Act to divide a Polling District in the County of Hants."

Cap. 56.—"An Act to amend Chapter 32 of the Revised Statutes, 'Of Public Instruction,' so far as relates to the County of Inverness."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 57.—"An Act further to amend the Act to incorporate the Town of New Glasgow."

The first section of this Act declares that the Municipal Courts of the Town of New Glasgow shall be a Court for trial of civil causes, known as the Town Court, to be presided over by the Stipendiary Magistrate, and a Court for the transaction of all police and criminal business of the town, known as the Police Court, to be presided over by the Stipendiary Magistrate, Recorder or Warden.

The fourth section provides that all fines, costs and fees shall go to form a fund, out of which the salary of the Recorder and the expenses of the Court shall be defrayed, and that any deficiency shall be paid out of the general funds of the town. I had occasion to consider the right of the Local Legislatures to legislate in respect of the application of fines arising from the Criminal Law, in a Report on the Legislature of the Province of British Columbia, dated 29th September, 1877. In that Report, which was approved of, the following remarks occur, namely:—

The Act under consideration being as follows: "Notwithstanding anything to the contrary contained in any Act, Ordinance or Proclamation, it shall be lawful for every Municipality paying the annual salary of a Police Magistrate and maintaining a Police Force to retain and use, as part of the Municipal revenues, all Police Court fines, fees and forfeitures."

This provision is wide enough to cover not only fines and forfeitures incurred for breach or non compliance with laws of the Province, made in relation to matters coming within the classes of subjects over which the Provincial Legislature has exclusive legislative authority, but also all fines and forfeitures which may be imposed at the Police Court under the Criminal Law of Canada, or by reason of the breach of or non-compliance with the laws of Canada.

The 102nd Section of the "British North America Act, 1867," provides that: "All duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick, before and at the Union, had and have powers of appropriation, except such portion thereof as are by this Act reserved to the respective

Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one consolidated revenue fund, to be appropriated for the public service of Canada, in the manner and subject to the charges in this Act provided."

There does not appear to be any provision in the Act reserving to the Provinces the revenues derived from fines or forfeitures under the Criminal Law, and as the Parliament of Canada has exclusive legislative authority over the Criminal Law (except the constitution of Courts of criminal jurisdiction), and as that Parliament alone can alter the existing Criminal Law, under which fines and forfeitures are imposed, and can create new crimes, punishable by fine or forfeiture, and alone increase or reduce the amounts of fines and forfeitures under the Criminal Law, or altogether abolish them, I am of opinion that the provision of this Act, so far as it attempts to control or dispose of fines and forfeitures imposed by the Criminal Law, or by any of the other laws of Canada, is *ultra vires* of the powers of the Provincial Legislature, and I recommend that the attention of the Lieutenant-Governor be called to this Act, to the end that the same may, at the next Session of the Provincial Legislature, be repealed, or so amended as to confine it to fines and forfeitures arising under laws of the Province made in relation to matters coming within the exclusive legislative authority of the Province; otherwise, that it be disallowed."

These remarks are equally applicable to this section, and I recommend that the same course be pursued in this case as was then followed.

The eighth section of the Act now under consideration provides that, "The Police Court shall have and exercise, within the bounds of the Municipality, all the powers and jurisdiction in criminal matters conferred upon one or more Justices of the Peace, or Stipendiary or Police Magistrate, by an Act of this Province or of the Dominion of Canada."

In reporting upon a provision of a similar nature, of an Act of the Legislature of the Province of Manitoba, the then Minister of Justice, on the 17th October, 1871, stated as follows:—

"This section provides that a Police Magistrate shall have all the powers possessed by one, two or more Justices of the Peace."

"Now, it is obvious that if one Act of the Dominion Parliament, relating to criminal law, provided for the trial of an offender before two Justices of the Peace, no Provincial Legislature has the power of amending such provision, by giving any one person, although a Judge, or Stipendiary or Police Magistrate, the power conferred by the Dominion Act, on two Justices."

"It is suggested that the Act in question should be amended at the next Session of the Legislature, by substituting the following words for those above quoted, viz.:—'In addition to all the powers possessed by any one Justice of the Peace, shall also have all the powers conferred by any Statute of the Province upon two or more Justices of the Peace.'"

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 58.—"An Act to authorize the Town of New Glasgow to issue Debentures."

Cap. 59.—"An Act to amend the Act to add a Polling District in the County of Pictou."

Cap. 60.—"An Act to amend Cap. 92 of the Revised Statutes, 'Of Juries,' so far as regards the County of Richmond."

Cap. 61.—"An Act to provide for the construction of a Bridge or Embankment at Lockport, in the County of Shelburne."

Cap. 62.—"An Act to divide an Electoral District in the County of Victoria."

Cap. 63.—"An Act further to amend 'An Act to authorize the Township of Yarmouth to take Stock in the Western Counties Railway Company.'"

Cap. 64.—"An Act to enable the Township of Yarmouth to sell certain Real Estate."

Cap. 65.—"An Act to provide for Lighting the Streets of the Town of Yarmouth."

Cap. 66.—" An Act to exempt the Township of Yarmouth from the operation of Chapter 17 of the Acts of 1876."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 67.—" An Act to incorporate the Truro Marine Insurance Company."

This Act, by Section 11, authorizes the Directors of the Company, at their office, in Truro, to commence and conduct the business of Marine Insurance in all its branches, with respect to vessels owned or registered, and cargoes owned or shipped in the Province of Nova Scotia, and within the said Province to make contracts of insurance upon all subjects of Marine Insurance, including freights of such vessels, and to transact all matters relating to the business of a Marine Insurance Broker, Insurer or Underwriter, within the Province of Nova Scotia, with respect to vessels registered or owned, and cargoes owned or shipped in the Province aforesaid, and freights of such vessels.

The power of a Local Legislature to incorporate an Insurance Company must be derived from the power given to incorporate Companies with Provincial objects, and what is or is not a Provincial object in reference to Marine Insurance, is by no means easy of determination. I am not prepared to say that the powers to be conferred upon the Company, by the section in question, are not within the authority of the Provincial Legislature, and in view of the doubts which surround the subject, I recommend that the power of disallowance be not exercised in respect of this Act.

Cap. 68.—" An Act to incorporate 'The Shipowner's Marine Insurance Company, of Windsor (Limited).' "

The second Section of this Act gives to the Company similar powers to those given by the eleventh Section to the Company incorporated by Cap. 67. The same remarks apply to this.

Cap. 69.—" An Act to amend the Act to incorporate " The Maitland Marine Insurance Company.' "

This Act gives to the Maitland Marine Insurance Company similar powers to those above referred to, and the same remarks apply also to this Act.

Cap. 70.—" An Act further to amend the Acts relating to the Halifax Fire Insurance Company."

Cap. 71.—" An Act to amend the Act to incorporate the Western Counties Railway Company, and the Acts in amendment thereof."

Cap. 72.—" An Act to amend the Act relating to the Western Counties Railway Company."

Cap. 73.—" An Act to amend the Act to incorporate the Pugwash and Spring Hill Railway Company."

Cap. 74.—" An Act to incorporate the Whitehaven Railway Company (Limited)."

Cap. 75.—" An Act to incorporate the New Glasgow Copper Mining Company (Limited)."

Cap. 76.—" An Act to incorporate the Boston Coal Mining Company (Limited)."

Cap, 77.—" An Act to incorporate the Block House Coal Company (Limited)."

Cap. 78.—" An Act to amend the Act to incorporate the Crown Coal, Brick and Pottery Company."

Cap. 79.—" An Act to amend the Act to incorporate 'The International Coal Mining Company,' and the Acts in amendment thereof."

Cap. 80.—" An Act to amend Cap. 73 of the Acts of 1874, intituled: 'An Act to incorporate The Cape Breton Company (Limited).' "

Cap. 81.—I will report upon this Act at a future day.

Cap. 82.—" An Act to incorporate the Union Protection Company of Dartmouth."

Cap. 83.—" An Act to amend the Act to enlarge the powers of the Trustees, Governors and Fellows of Acadia College."

Cap. 84.—" An Act to amend the Act to incorporate the Halifax Academy of Music."

Cap. 85.—"An Act to incorporate the Trustees of Scotch Hill Cemetery, in the County of Pictou."

Cap. 86.—"An Act to incorporate the Nova Scotia Society for the Prevention of Cruelty to Animals."

Cap. 87.—"An Act to vest in the Diocesan Synod of Nova Scotia, the funds held by the Diocesan Church Society."

Cap. 88.—"An Act to authorize the sale of the First Free Baptist Meeting House, in Port Medway."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *April*, 1878.

The Committee of Council have had before them a Report dated 27th March, 1878, from the Hon. the Minister of Justice, upon the Statutes passed by the Legislature of the Province of Nova Scotia, in the 40th year of Her Majesty's reign (1877), and they concur in the views and recommendations therein submitted, and accordingly advise that the Acts reported as unobjectionable be left to their operation; that the attention of the Lieutenant-Governor of Nova Scotia be called to the remarks submitted in the Report of the Minister of Justice, and with that view, that a copy of said Report to transmitted to the Lieutenant-Governor.

W. A. HIMSWORTH,
Clerk Privy Council.

General Sir W. O'Grady Haly to the Governor General.

HEADQUARTERS, HALIFAX, N. S., 18th October, 1877.

MY LORD,—I have the honor to forward, for Your Excellency's information, a copy of a letter which, in the interest of British Officers serving in this command, I have deemed it my duty to address to the Right Hon. the Secretary of State for War, with a view to the subject thereof being submitted for the consideration of the Law Officers of Her Majesty's Government.

I have, &c.,

W. O'G. HALY,
General Commanding the Forces in B.N.A.

To His Excellency
The Right Hon. Earl of Dufferin, K.P., K.C.B.,
Governor General.

General Sir W. O'Grady Haly to the Secretary of State for War.

HALIFAX, N.S., 15th October, 1877.

SIR,—I beg to forward herewith a copy of the Statutes of Nova Scotia, passed in the fortieth year of the reign of Her Majesty, and to refer particularly to your consideration Cap. 25, described as, "An Act further to amend the laws for the preservation of useful Birds and Animals."

By the 18th clause of this Act (page 26), you will observe that a tax or fee of $5 (equivalent to about £1 sterling) is imposed upon all Officers of this garrison desiring to avail themselves of the privilege of the game laws, as being persons not having their domicile in the Province.

I feel it incumbent upon me to point out that this enactment, imposing a tax upon British Officers stationed on duty in this Province, from which the natives are exempt, has not unnaturally caused a feeling of considerable dissatisfaction among Officers serving in this command.

It is not that the Officers object in any way to the payment of a fee for the privilege of shooting were it imposed equally upon all their fellow-subjects but they consider it hard and unjust that by an Act of the Provincial Legislature, they should thus be placed in an inferior position to the native residents in the Province. The more so, as in Nova Scotia alone of all the Provinces of the Dominion of Canada, is a British Officer, by legislative enactment, treated as an alien.

I would beg to submit for consideration that if it be competent for a Provincial Legislature, in any portion of Her Majesty's dominions, thus to pass an Act discriminating against British Officers, there appears no reason why it may not ultimately seek to augment its revenues by similarly imposing taxes upon the property of Officers, while exempting the native residents.

The Officers under my command hold the opinion, in which I entirely concur, that, while serving here under Her Majesty's order, we are, for the time being, *bonâ fide* domiciled in Nova Scotia, whether occupying Government quarters or residing in hired houses, and, in the latter case, it is the more hard, as while liable to all rates and taxes in the City of Halifax, equally with other residents therein, the equality ceases the moment he desires to shoot game in the Province.

In conclusion, I would beg that this case may be submitted for the opinion of the Law Officers of the Crown, and that Her Majesty's Government may be pleased to take steps to relieve military Officers, serving in this command, from the humiliating position in which we are placed by this Act of the Legislature of Nova Scotia.

I have, &c.,

W. O'G. HALY,

General Commanding the Forces of B. N. A.

True copy.
H. H. O'GRADY HALY,
Captain, for Asst. Mil. Secy.

The War Office to the Colonial Office.

WAR OFFICE, 17th November, 1877.

SIR,—I am directed by the Secretary of State for War to transmit to you, to be laid before the Earl of Carnarvon, a copy of a letter from the General Officer commanding the troops in British North America, pointing out that, by the eighteenth Section of the Act, Cap. 25, passed this year by the General Assembly of Nova Scotia, "To amend the laws for the preservation of useful Birds and Animals," a special fee of $5 is imposed upon Officers of the Garrison, who desire to avail themselves of the privileges of the game laws.

Mr. Hardy is of opinion that, for the reasons given by Sir W. O'G. Haly, these Officers may fairly expect to be placed on the same footing, in this respect, as natives of the Province, and Mr. Hardy trusts that, should Lord Carnarvon concur in this

view, he will take the necessary steps for causing this question to be submitted for the consideration of the Government and the General Assembly of Nova Scotia.

I am, &c.,

RALPH THOMPSON.

The Under Secretary of State,
Colonial Office.

Copy of Sir W. O'G. Haly's Despatch to the Secretary of State for War, dated 15th October was sent to the Secretary of State for Canada, on the 24th Oct. last.

The Earl of Carnarvon to the Earl of Dufferin.

DOWNING STREET, 30th November, 1877.

MY LORD,—I have the honor to transmit to Your Lordship a copy of a letter from the War Office, with an extract from a communication from the General Officer commanding the troops in British North America, respecting a fee of five dollars, imposed upon Officers of the Garrison at Halifax, who desire to avail themselves of the privileges of the game laws.

On reference to the Provincial Act complained of, viz.: Cap. 25 of 40 Vic., I observe that Officers of the army and navy serving at Halifax, are more favorably treated, in regard to the amount of the fee required, than the inhabitants of other portions of the Dominion, beyond the limits of the Province; but, notwithstanding this privilege, I hope that the Provincial Government may, on further consideration of this matter, be disposed to recommend to the Legislature an amendment of the Act, so as to allow to persons serving in Her Majesty's army and navy in the Province, the same privileges as are granted to persons domiciled there.

I have, &c.,

CARNARVON.

Governor General,
The Right Hon. The Earl of Dufferin, K.P., G.C.M.G., K.C.B.

Lieutenant-Governor Archibald to Secretary of State.

GOVERNMENT HOUSE, HALIFAX, N. S., 8th April, 1878.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. $\frac{6}{78}\frac{14}{4}$ dated the 3rd April, 1878, enclosing a copy of Minute of Council, comprising the Report of the Hon. the Minister of Justice in reference to the Provincial Statutes of 1877, and have, as desired, brought to the notice of my Government the remarks made by the Minister to 25th, 57th, 67th, 68th, and 69th Chapters of these Acts.

As to the latter three of these Statutes, the Minister of Justice, while suggesting the difficulty there exists in deciding what is a Provincial object in reference to Marine Insurance, does not undertake to decide that the clauses, and these Acts to which his remarks refer, are *ultra vires*, and recommends that they may be left to their operation.

I apprehend that it is not expected that my Government shall take any action in reference to these Acts at the next Session of the Provincial Legislature.

As regards Chapter 57 there will, I apprehend, be no difficulty in amending it at the next Session in the sense suggested by the Minister of Justice.

In reference to Cap. 25 for the preservation of useful birds and animals, the recommendation of the Minister of Justice that a copy of the correspondence commencing with the letter to the Secretary of War by the late Sir W. O'Grady Haly, has been overlooked, no copy of this correspondence having been enclosed with the Minutes of Council; but I am happy to say that the clause, of which the Officers of the Army and Navy complained, has been altered, and a compromise agreed on which has been embodied in an amendment of the Act in question passed at the Session just closed and which disposes of the difficulty in a manner satisfactory to all parties.

I have, &c.,

ADAMS G. ARCHIBALD,

Lieutenant-Governor.

The Honorable
The Secretary of State for Canada,

Under Secretary of State to Governor General's Secretary.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 15th April, 1878.

SIR,—With reference to my letter of the 10th instant, and its enclosure, I am directed to transmit to you herewith for the information of His Excellency the Governor General, an extract from a Despatch from His Honor the Lieutenant-Governor of Nova Scotia, on the subject of the Act passed by the Legislature of that Province in the fortieth year of Her Majesty's reign (1877), intituled: "An Act further to amend the laws for the preservation of useful birds and animals."

I have, &c.,

E. J. LANGEVIN.

Under Secretary of State.

To the Governor General's Secretary.

The War Office to the Colonial Office.

WAR OFFICE, 21st May, 1878.

SIR,—I am directed by Secretary, Colonel Stanley, to acknowledge the receipt of Mr. Malcolm's letter of the 14th May, transmitting a copy of a Despatch from the Governor General of Canada relative to the amendment of the Section of the Act of the Nova Scotia Legislature, under which Officers of the Garrison at Halifax availing themselves of the game laws, were placed in a less favorable position than persons domiciled in the Province.

In reply, I am to request that Colonel Stanley's thanks for the ready way in which the representations from this office on the subject have been met, may be conveyed through the Governor General.

I am, &c.,

T. C. VIVIAN.

The Under Secretary of State,
Colonial Office.

Sir M. E. Hicks-Beach to the Earl of Dufferin.

DOWNING STREET, 27th May, 1878.

MY LORD,—With reference to Your Lordship's Despatch, No. 106, of the 23rd of April, I have the honor to transmit to you a copy of a letter from the War Office expressing the thanks of the Secretary of State for War for the ready way in which the representations of the War Office in regard to the game law of Nova Scotia, have been met by the Local Government and Legislature.

You will be so good as to communicate a copy of the War Office letter to the Lieutenant-Governor of the Province.

I have, &c.,

M. E. HICKS-BEACH.

Governor General
The Right Hon. Earl of Dufferin, K.P., G.C.M.G., K.C.B.

Secretary of State to Lieutenant-Governor of Nova Scotia.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 17th June, 1878.

SIR,—With reference to previous correspondence on the subject, I have the honor to transmit to you herewith, for the information of your Government, a copy of a letter from the War Office received through the Right Honorable the Secretary of State for the Colonies, expressing the thanks of the Right Honorable the Secretary of State for the ready manner in which the representations of the War Office in regard to the game law of Nova Scotia have been met by the Government and Legislature of that Province.

I have, &c.,

R. W. SCOTT.

His Honor
The Lieutenant-Governor of Nova Scotia,

Deputy Minister of Justice to Under Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 17th June, 1878.

Unless a communication has been received from the Lieutenant-Governor of Nova Scotia, upon the Report of the 27th March of this Department, upon the Acts of the Legislature of the Province, passed in the year 1877, the Secretary of State will please ask the Lieutenant-Governor for an intimation of the action which has been taken, or intended to be taken, by his Government with respect to the 4th and 8th sections of the Act, Cap. 57, intituled: "An Act further to amend the Act to incorporate the Town of New Glasgow," and as the time for disallowance will expire on the 9th July, the Lieutenant-Governor should be requested to send his reply as soon as possible.

Z. A. LASH,
Deputy Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th June, 1878.

I have the honor to report upon Cap. 81 of the Statutes, passed by the Legislative Assembly of the Province of Nova Scotia, in the year 1877, intituled: "An

Act to incorporate the Bedford Grain Importation, Milling and Manufacturing Company, Limited," which Act was not reported upon in the Report upon the other Acts. Consideration of the Act was reserved till information was obtained as to whether or not the Nine Mile River, refered to in the Act, is navigable or not. From information obtained from the Department of Marine and Fisheries, I learn that the river is not navigable for boats or vessels. The Act appears, therefore, to be unobjectionable, and I recommend that it be left to its operation.

Z. A. LASH,

Deputy Minister of Justice.

I concur.

R. LAFLAMME,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd July,* 1878.

On the recommendation of the Hon. the Minister of Justice for the reasons stated in his Report, dated 20th June, 1878, the Committee advise that Cap. 81 of the Statutes passed by the Legislative Assembly of the Province of Nova Scotia in the year 1877, intituled : " An Act to incorporate the Bedford Grain Importation Milling and Manufacturing Company, Limited," be left to its operation.

Certified.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

Lieutenant-Governor Archibald to Secretary of State.

GOVERNMENT HOUSE, HALIFAX, N. S., 24th June, 1878.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. $\frac{1258}{784}$, dated 21st June, 1878, wherein, in reference to your previous Despatch of the 3rd April and my reply thereto of the 8th, you desire to be informed of the action intended to be taken by my Government with respect to the 4th and 8th Sections of Cap. 57 of the Acts of 1877. I have the honor to say in reply that, in my answer above referred to, I stated—what you have probably overlooked—that there would be no difficulty in amending the Act in the next Session, in the sense suggested by the Minister of Justice.

Your Despatch, dated 3rd April, did not arrive here till the 6th, two days after the House had been prorogued. and it was too late for any action.

My Government are perfectly powerless except to pledge themselves at next Session to a repeal of the clauses objected to, as these clauses if assented to would be wholly inoperative as law. Assuming the objections made to them to be well founded, it would not seem that much mischief could arise in a single year by allowing the Act to take effect, which would make it operative so far as the jurisdiction extends. but in that matter the Honorable t e Minister of Justice, of course, will decide for himself.

I have, &c.,

ADAMS G. ARCHIBALD,

Lieutenant-Governor.

The Honorable

The Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th July, 1878.

In a Report upon the Acts of the Legislative Assembly of the Province of Nova Scotia, passed in the fortieth year of Her Majesty's reign, 1877, I pointed out certain objections to Cap. 57, intituled: "An Act further to amend the Act to incorporate the Town of New Glasgow," and recommended that the attention of the Lieutenant-Governor should be called thereto.

A Despatch has been received from the Lieutenant-Governor stating that at the next Session of the Legislature his Government will promote the necessary Legislation to remove the objections taken to the Act.

Relying upon this assurance, I recommend that the Act be left to its operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.
R. LAFLAMME,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 13*th July*, 1878.

On a Memorandum, dated 5th July 1878, from the Hon. the Minister of Justice, stating that in a Report upon the Acts of the Legislative Assembly of the Province of Nova Scotia passed in the 40th year of Her Majesty's reign, 1877, he pointed out certain objections to Chapter 57, intituled: "An Act further to amend the Act to incorporate the Town of New Glasgow," and recommended that the attention of the Lieutenant-Governor should be called thereto.

That a Despatch has been received from the Lieutenant-Governor stating that at the next Session of the Legislature, his Government will promote the necessary Legislation to remove the objections taken to the Act.

That relying upon this assurance he, the Minister, recommends that the Act be left to its operation.

The Committee advise that the said Act be left to its operation accordingly.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

NOVA SCOTIA, 41ST VICTORIA, 1878.

4TH SESSION—26TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th June, 1879.

I have the honor to report that I have examined the Acts passed by the Legislature of the Province of Nova Scotia, in the year 1878, in the Fourth Session of the

Twenty-sixth General Assembly convened in the Province, Chaptered 1 to 78 inclusive, being all the Acts passed in that Session.

They all seem unobjectionable, and I recommend that they be left to their operation.

Reserved Bill.

A Bill intituled: "An Act to incorporate the Nova Scotia District Branch of the Independent Order of Oddfellows," was also passed, but was reserved by His Honor the Lieutenant-Governor for the signification of His Excellency's pleasure thereon.

In transmitting the same the Lieutenant-Governor explains that his reasons for reserving the Bill are, that the fourteenth section entrenches upon the jurisdiction of the Parliament of Canada as it attempts to deal with what are unquestionably crimes, and not only does the Bill undertake to deal with criminal offences, but enacts that it should not be lawful to proceed by indictment in certain specified cases, thus not only attempting to enact a Criminal Law but undertaking to repeal part of the Criminal Statutes passed by the Parliament of Canada, so far as relates to cases referred to in the clause.

The provision of the Bill is clearly beyond the powers of the Provincial Legislature, and the objectionable provisions might, if allowed to remain upon the Statute Book, be the cause of considerable inconvenience and embarrassment, although they would have no force if objections to their validity were taken, that had the Bill been assented to by the Lieutenant-Governor it would have been the duty of the Government to recommend its disallowance unless the objectionable clause were repealed. That such being the case, it is clearly the duty of the Government not to recommend that His Excellency's assent thereto be given. I recommend that the Lieutenant-Governor be so informed.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor-General in Council on the 25th June*, 1879.

On a Report dated 16th June, 1879, from the Hon. the Minister of Justice, stating that he has examined the Acts passed by the Legislature of the Province of Nova Scotia in the year 1878, in the Fourth Session of the Twenty-sixth General Assembly convened in the Province, Chaptered from one (1) to seventy-eight (78) inclusive, being all the Acts passed in that Session, and that they all seem unobjectionable, and he recommends that they be left to their operation.

That a Bill intituled: "An Act to incorporate the Nova Scotia District Branch of the Independent Order of Oddfellows;" was also passed, but was reserved by His Honor the Lieutenant-Governor, for the signification of His Excellency's pleasure thereon.

That the provisions of the Bill are clearly beyond the powers of the Provincial Legislature, and the objectionable provisions might, if allowed to remain upon the Statute Book, be the cause of considerable inconvenience and embarrassment, although they would have no force if objections to their validity were taken. That had the Bill been assented to by the Lieutenant-Governor it would have been the duty of this Government to recommend its disallowance unless the objectionable clause were repealed.

That such being the case it is clearly the duty of the Government not to recom-

mend that His Excellency's assent thereto be given. He, the Minister, recommends that the Lieutenant-Governor be so informed.

The Committee submit the foregoing recommendation for Your Excellency's approval.

W. A. HIMSWORTH,
Clerk Privy Council.

Secretary of State to Sir Wm. Young.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 2nd July, 1879.

SIR,—I have the honor to transmit to you, herewith, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council having reference to the Acts passed by the Legislature of the Province of Nova Scotia in the year 1878.

I have, &c.,
J. C. AIKINS.

His Honor
The Administrator of the Government of Nova Scotia,
Halifax.

Sir Wm. Young to Secretary of State.

GOVERNMENT HOUSE, HALIFAX, N. S., 7th July, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. $\frac{178}{7158}$, dated 2nd July, 1879, transmitting, for the information of my Government, a copy of an Order of His Excellency the Governor General in Council, having reference to the Acts passed by the Legislature of that Province in 1878.

I have, &c.,
W. YOUNG,
Administrator.

The Honorable
The Secretary of State for Canada.

NOVA SCOTIA, 42ND VICTORIA, 1879.

1ST SESSION—27TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th June, 1880.

I have the honor to report upon the Acts of the Legislature of the Province of Nova Scotia, passed in the forty-second year of Her Majesty's reign (1879), received by the Secretary of State on the 21st day of August, 1879, as follows:—

Cap. 1.—"An Act intituled: 'The County Incorporation Act.'"

Cap. 2.—"An Act respecting the Supreme Court of Canada and the Exchequer Court of Canada."

Cap. 3.—"An Act to amend Cap. 11 of the Revised Statutes, 4th Series, of Crown Lands."

Cap. 4.—"An Act to amend Cap. 17 of the Revised Statutes, 4th Series of Sheriffs."

Cap. 5.—"An Act to amend Cap. 21 of the Revised Statutes of County Assessments."

Cap. 6.—"An Act to further amend Cap. 32 of the Revised Statutes of Public Instruction."

Cap. 7.—"An Act to amend Cap. 32 of the Revised Statutes of Public Instruction."

Cap. 8.—"An Act to amend Cap. 32 of the Revised Statutes, 4th Series, of Public Instruction."

Cap. 9.—"An Act to amend Cap. 33 of the Revised Statutes, 4th Series, of the Settlement and Support of the Poor."

Cap. 10.—"An Act to amend Cap. 36 of the Revised Statutes of Lunatics and the Custody and Estates of Lunatics."

Cap. 11.—"An Act to amend Cap. 48 of the Revised Statutes, 4th Series, of Closing Roads."

Cap 12.—"An Act to amend Cap. 75 of the Revised Statutes of Licenses for the sale of Intoxicating Liquors."

Cap. 13.—"An Act to amend Cap. 79 of the Revised Statutes of the Registry of Deeds and Encumbrances affecting Lands."

Cap. 14.—"An Act to amend Cap. 90 of the Revised Statutes, 4th Series, of the Probate Court, and procedure therein."

Cap. 15.—"An Act to amend Cap. 96 of the Revised Statutes of Witnesses and Evidence."

Cap. 16.—"An Act to amend Cap. 101 of the Revised Statutes of the Writ of Dower."

Cap. 17.—"An Act to amend Cap. 104 of the Revised Statutes, 4th Series, of the sale of Lands under Execution."

Cap. 18.—"An Act to amend Cap. 114, Revised Statutes of Costs and Fees."

Cap. 19.—"An Act to amend the Practice and Procedure in the Supreme Court."

Cap. 20.—"An Act to further amend the Acts to establish County Courts."

Cap. 21.—"An Act relating to the Jurisdiction of Justices of the Peace in Civil Cases."

I recommend that the power of disallowance be not exercised with respect to these Acts.

Cap. 22. "An Act respecting Estreats."

This Act will be reported upon separately.

Cap. 23. "An Act to amend Cap. 24 of the Acts of 1876, entitled: 'An Act to amend Cap. 24 of the Revised Statutes of the Church of England.'"

Cap. 24. "An Act to amend and consolidate the Laws relative to the Preservation of Useful Birds and Animals.

Cap. 25. "An Act to amend the Acts relating to the acknowledgment of Deeds executed out of the Province by married women."

Cap. 26. "An Act relating to certain Public Charities."

Cap. 27. "An Act relating to the Taxation of Cotton Mills."

Cap. 28. "An Act relating to the Taxation of Sugar Refineries."

Cap. 29. "An Act for the Protection of Bridges."

Cap. 30. "An Act to amend Cap. 22 of the Acts of 1878, relating to a Provincial Guarantee of Railway Debentures."

Cap. 31. "An Act to establish Liens in favor of Mechanics, Machinists and others."

Cap. 32. "An Act respecting the winding up of Incorporated Companies."

Cap. 33. "An Act to legalize Jury Lists and Panels for the present year."

Cap. 34. "An Act to legalize Assessment Rolls and Revisors' Lists for the present year."

Cap. 35. "An Act to abolish the office of Law Clerk of the Legislative Council."

Cap. 36. "An Act to provide for defraying certain Expenses of the Civil Government of this Province."

Cap. 37. "An Act to amend the Act as to Buildings in the City of Halifax."

Cap. 38. "An Act further to alter and amend the Act concerning the City of Halifax."

Cap. 39. "An Act concerning the City of Halifax."

Cap. 40. "An Act to amend Cap. 81 of the Acts of 1864, of the Incorporation of the City of Halifax."

Cap. 41. "An Act to provide for building a Bridge or Aboiteau over Allan's River, in County of Annapolis."

Cap. 42. "An Act to change the name of Pomquette Forks, in the County of Antigonish."

Cap. 43. "An Act to change the name of Summerville, in the County of Antigonish."

Cap. 44. "An Act to establish new Polling Districts in the County of Cape Breton."

Cap. 45. "An Act to amend Cap. 33 of the Acts of 1878, respecting Juries in the County of Cape Breton."

Cap. 46. "An Act to enable the County of Cape Breton to borrow money for Roads and Bridges."

Cap. 47. "An Act to improve the navigation of Partridge Island River, in the County of Cumberland."

Cap. 48. "An Act to change the name of Maccan Mountain Settlement, in the County of Cumberland."

Cap. 49. "An Act to name a Settlement in the County of Cumberland."

Cap. 50. "An Act to authorize a Loan for the District of Digby."

Cap. 51. "An Act to provide for the construction of Milford Haven Bridge, in the County of Guysborough."

Cap. 52. "An Act to enable the County of Guysborough to borrow money for Roads and Bridges."

Cap. 53. "An Act to change the name of a Settlement, in the County of Inverness."

Cap. 54. "An Act to enable the County of Inverness to borrow money for Roads and Bridges."

Cap. 55. "An Act concerning Crown Lands, in King's County."

Cap. 56. "An Act to amend Cap. 52 of the Acts of 1864, intituled: 'An Act concerning the Township of Chester.'"

Cap. 57. "An Act to amend the Acts relating to the Town of New Glasgow."

Cap. 58. "An Act to alter and amend the Act to incorporate the Town of Pictou."

Cap. 59. "An Act to further alter and amend the Act to incorporate the Town of Truro."

Cap. 60. "An Act to amend Cap. 55 of the Acts of 1870, intituled: 'An Act to authorize the purchase of land for a Public Cemetery in the Town of Windsor."

Cap. 61. "An Act to amend the Act to enable the Town of Yarmouth to procure additional Fire Engines."

Cap. 62. "An Act to enable the County of Victoria to borrow money for Roads and Bridges."

Cap. 63. "An Act to amend the Act to divide an Electoral District in the County of Victoria."

Cap. 64. "An Act to amend the Act incorporating the Western Counties Railway Company, and the Acts in amendment thereof, and to repeal certain other Acts."

Cap. 65. "An Act to authorize the Government of Nova Scotia to aid the Railway from Digby to Yarmouth."

Cap. 66. "An Act to amend the Acts relating to Eastern Railway Extension."

Cap. 67. "An Act to amend Cap. 27, of the Acts of 1877, relating to the Nictaw and Atlantic Railway."

Cap. 68. "An Act to amend the Act to incorporate the Whitehaven Railway Company."

Cap. 69. "An Act to amend the Act to incorporate the Pugwash and Spring Hill Railway Company."

Cap. 70. "An Act to amend the Act incorporating the Halifax and Cape Breton Railway and Coal Company."

Cap. 71. "An Act to further amend the Act to incorporate the Inverness Coal, Iron and Railway Company (Limited)."

Cap. 72. "An Act to amend the Act of Incorporation of the 'Spring Hill Mining Company.'"

Cap 73. "An Act to incorporate the Gladstone Gold Mining Company."

Cap. 74. "An Act to incorporate the Dalhousie Copper Mining Company of Nova Scotia."

Cap. 75. "An Act to incorporate 'The Pictou Permanent Building and Loan Society.'"

Cap. 76. "An Act to incorporate the the Yarmouth Water Company."

Cap. 77. "An Act further to amend the Acts relating to the Acadia Fire Insurance Company."

Cap. 78. "An Act to amend an Act of the present Session, intituled: 'An Act further to amend the Acts relating to the Acadia Fire Insurance Company.'"

Cap. 79. "An Act to amend the Acts relating to the Halifax Fire Insurance Company."

Cap. 80. "An Act to amend an Act of the present Session, intituled: 'An Act to amend the Acts relating to the Halifax Fire Insurance Company.'"

Cap. 81. "An Act to empower the Rector and Churchwardens of Trinity Church, Wilmot, to sell certain lands."

Cap. 82. "An Act to amend an Act to incorporate the Board of Education of the Presbyterian Church of the Lower Provinces of British North America."

Cap. 83. "An Act to incorporate the Church of England Institute."

Cap. 84. "An Act to incorporate the Home Mission Board of the Baptist Convention of Nova Scotia, New Brunswick and Prince Edward Island."

Cap. 85. "An Act to incorporate the Catholic Temperance Union of Nova Scotia."

Cap. 86. "An Act in relation to the Law Library at Halifax."

Cap. 87. "An Act to incorporate the Nova Scotia Historical Society."

Cap. 88. "An Act to further amend the Acts relating to the Halifax Sugar Refinery."

Cap. 89. "An Act to amend an Act to incorporate the Halifax Academy of Music."

Cap. 90. "An Act to incorporate the Women's Home."

Cap. 91. "An Act to incorporate the Sydney Club."

I recommend that the power of disallowance be not exercised with respect to these Acts.

JAMES McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd June,* 1880.

On a Report, dated 4th June, 1880, from the Hon. the Minister of Justice, upon the Acts Caps. 1 to 91, of the Legislature of the Province of Nova Scotia, passed in the forty-second year of Her Majesty's reign (1879), received by the Hon. the Secretary of State on the 21st day of August, 1879;

The Committee concur in the recommendation of the Minister of Justice that the power of disallowance be not exercised with respect to those Acts, with the exception of the Act, Cap. 22 : " An Act respecting Estreats," which the Minister states will be reported upon separately.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th September, 1880.

I have the honor to report :—

That an Act was passed by the Legislature of the Province of Nova Scatia in the year 1879, being Chapter 22, and entitled : " An Act respecting Estreats."

The Act makes provision for the collection of all fines and forfeited recognizances imposed or forfeited by or before the Supreme Court in any County of the Province, &c.

The 12th Section is as follows: "The Sheriff shall without delay pay over all money by him collected to the officer or person entitled to receive such money under Section 96 of Chapter 171 of the Revised Statutes, third Series, and the same shall be appropriated in the manner mentioned in Section 97 of said Chapter."

The provisions of Sections 96 and 97, Chap. 171 of the Revised Statutes, 3rd series, above referred, are as follows :—

" 96.—All fines and forfeiture levied and collected by the judgment of the Supreme Court in any of the Counties in this Province, shall be paid into the hands of the County Treasurer for such counties respectively."

" 97.—The fines and forfeitures so paid to the County Treasurer shall be paid and applied by him towards the payment of witnesses attending criminal trials, and also witnesses attending prosecutions of offences committed against the provisions of the first and second Sections of Chapter one hundred and sixty-three of the Revised Statutes, of Offences against the Administration of Justice, under the same rules and regulations as provided by the Act hereby amended."

If the Act now under consideration made provision as to the disposal of fines and forfeitures under the Criminal Law or by reason of the breach of, or non-compliance with, any of the laws of Canada, it would, in my opinion, be beyond the powers of the Provincial Legislatures; but as the 96th and 97th Sections of Chapter 171, of the Revised Statutes above referred to were passed before Confederation, no doubt can exist as to the constitutionality of their provisions, and as the Act now under consideration, so far as the appropriation of the money is concerned, leaves the law as it stood since Confederation, it is not open to the objection referred to, and although it may be doubted whether it is entirely within the power of the Local Legislature to make the provisions which the Act does make on the subject, yet the Act affects merely the procedure in collecting the fines, &c., and does not deal with the disposal. I think it may safely be left to its operation.

I recommend however that the attention of the Lieutenant-Governor be called to the above remarks.

JAMES McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 5th October,* 1880.

The Committee have had before them the Report, dated 27th September, 1880, from the Hon. the Minister of Justice, upon an Act passed by the Legislature of the Province of Nova Scotia, in the year 1879, being Cap. 22, intituled : " An Act respecting Estreats."

For the reasons set forth in his Report, the Minister states that he thinks this Act may be safely left to its operation; he recommends, however, that the attention of the Lieutenant-Governor be called to the remarks contained in his Report.

The Committee submit the above recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

Under Secretary of State to Lieutenant-Governor Nova Scotia.

OTTAWA, 7th October, 1880.

SIR,—I am directed to transmit to you herewith, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, upon the subject of the Act passed by the Legislature of the Province of Nova Scotia, in the year 1879, being Cap. 22, intituled: "An Act respecting Estreats."

I have, &c.,
EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Nova Scotia.

Lieutenant-Governor Nova Scotia to Secretary of State.

GOVERNMENT HOUSE, HALIFAX, N. S., 14th October, 1880.

SIR,—I have the honor to acknowledge the receipt of Mr. Under Secretary Langevin's Despatch, No. $\frac{19}{50}\frac{86}{86}$ 35 dated the 7th October, 1880, transmitting a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, upon the subject of the Act passed by the Legislature of this Province, in the year 1879, being Cap. 22, intituled: "An Act respecting Estreats."

I have, &c.,
ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

NOVA SCOTIA, 43RD VICTORIA, 1880.

2ND SESSION—27TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th July, 1881.

I have the honor to report with respect to the Acts passed by the Legislature of Nova Scotia in the year one thousand eight hundred and eighty, as follows:—

I recommend that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters one to seventy-seven inclusive.

I would remark, however, that the provisions of Cap. 9 seem to entrench upon the regulations of trade and commerce; that Sec. 14 of Cap. 11, appears to be beyond the powers of the Legislature, in so far as they relate to the Court of Vice-Admiralty, and that some of the provisions of Section 7 of Cap. 68, seem to deal with the subject of Criminal Law or the procedure in criminal cases. None of such provisions are of a nature calculated to cause any inconvenience, even though they be beyond the powers of the Legislature, and for that reason I have not thought it necessary to recommend the exercise of the power of disallowance with respect to the Acts.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by the Honorable the Deputy of the Governor General, on the 29th day of July*, 1881.

The Committee of Council have had before them a Report, dated 27th July, 1881, from the Honorable the Minister of Justice, with respect to the Acts passed by the Legislature of Nova Scotia, in the year 1880.

On the recommendation of the Honorable the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters one to seventy-seven inclusive.

J. O. COTÉ,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor Archibald.

OTTAWA, 2nd August, 1881.

SIR,—I have the honor to inform you that the Honorable the Deputy of the Governor General in Council has had under his consideration the Acts passed by the Legislature of Nova Scotia, in the year 1880, and that he has not thought fit to exercise the power of disallowance with respect to any of the said Acts, being Chapters one to seventy-seven inclusive.

I have the honor to enclose to you herewith, for the information of your Government, a copy of the Report of the Minister of Justice, dated 27th ultimo, with reference to some of the Acts above mentioned.

I have, &c.,
J. A. MOUSSEAU,
Secretary of State.

His Honor
The Lieutenant-Governor of Nova Scotia,

Lieutenant-Governor Archibald to Secretary of State.

GOVERNMENT HOUSE, HALIFAX, N. S., 8th August, 1881.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 1,539 on 4,880, under date of the 2nd instant, informing me that the Deputy of the Governor General in Council has had under his consideration the Acts passed by the Legislature of Nova Scotia, in the year 1880, and that he has not thought fit to exercise the power of disallowance with respect to the said Acts, being Chapters 1 to 77, inclusive; covering also copy of a Report of the Minister of Justice, dated the 27th ultimo, with reference to some of the Acts above mentioned.

I have, &c.,

ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

NOVA SCOTIA, 44TH VICTORIA, 1881.

3RD SESSION—27TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th January, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report, with respect to the Acts passed by the Legislature of the Province of Nova Scotia, in the year 1881, as follows :—

Chap. 1. An Act to further amend the County Incorporation Act of 1879.

Chap. 2. An Act to amend the County Court Consolidation Act.

Chap. 3. An Act to further amend Chapter 2 of the Acts of 1880, relating to County Courts.

Chap. 4. An Act to amend Chapter 9 of the Revised Statutes, 4th Series, "Of Mines and Minerals."

Chap. 5. An Act to amend Chapter 20, Revised Statutes, "Of the Regulation of Mines."

Chap. 6. An Act to further amend Chapter 28 of the Revised Statutes, "Of Practitioners in Medicine and Surgery."

Chap. 7. An Act to further amend Chapter 32 of the Revised Statutes, "Of Public Instruction," and the Acts in amendment thereof.

Chap. 8. An Act to amend Chapter 37 of the Revised Statutes, "Of the Encouragement of Agriculture."

Chap. 9. An Act to amend Chapter 81 of the Revised Statutes, "Of Wills of Real and Personal Estate."

Chap. 10. An Act to further amend Chapter 90, Revised Statutes, "Of the Probate Court and procedure therein."

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 11. An Act in reference to Crown Lands and Crown Land Surveyors.

Section 3 of this Act is as follows :—

"Whenever proceedings shall be taken for the escheat of any lands, such lands shall, from the date of the filing of the inquest of office, be deemed and held to be vested in the Crown, for all purposes connected with the forfeiture of such lands from trespasses, and for the punishment of any persons trespassing thereon, and for the reclamation of any timber or other property therefrom, and all proceedings relating to any of the matters in this land referred to, shall and may be taken in the name of Her Majesty the Queen."

As the judgment of the Supreme Court of Canada, in the case of the Attorney-General of Ontario *vs.* O'Reilly, connected with the escheat of the Mercer estate, decides that the Dominion and not the Province is entitled to lands which escheat, and as that judgment, unless reversed by a higher tribunal, must be taken as declaring the law on the subject, the undersigned recommends that the Lieutenant-Governor of Nova Scotia be informed that unless the 3rd Section of the Act now under consideration be repealed during the present Session of the Nova Scotia Legislature, the same will be disallowed.

Chap. 12. An Act for the Prevention of Trespasses.

Chap. 13. An Act to amend the Act to amend and consolidate the Law relating to the Preservation of Useful Birds and Animals.

Chap. 14. An Act in reference to the Maintenance and Employment of Prisoners confined in Gaol.

Chap. 15. An Act in relation to the Office of Queen's Printer.

The undersigned recommends that the power of disallowance be not exercised with respect to the Acts.

Chap. 16. An Act to amend the Nova Scotia Railway Act of 1880.

This chapter will form the subject of a special Report.

Chap. 17. An Act to amend Chapter 14 of the Acts of 1877, relating to the University of Halifax.

Chap. 18. An Act to provide for the organization of a Law Faculty in connection with Dalhousie College, and for other purposes.

Chap. 19. An Act to legalize Jury Lists and Panels and Assessment Rolls and Revisors' Lists for the present year.

Chap. 20. An Act to provide for defraying certain expenses of the Civil Government of this Province.

Chap. 21. An Act to further amend the Act concerning the City of Halifax, and the Acts in amendment thereof.

Chap. 22. An Act in addition to the Act to enable the City of Halifax to erect Buildings for Industrial and Agricultural Exhibitions.

Chap. 23. An Act to enable the City of Halifax to grant a Subsidy in aid of the construction of a Graving or Dry Dock within the City of Halifax,

Chap. 24. An Act to enable the City of Halifax to appropriate a lot of Land for a Railway Terminus, and for other purposes.

Chap. 25. An Act to amend Chapter 25 of the Acts of 1868, entitled: "An Act to regulate the Poor Asylum and Hospital in the City of Halifax."

Chap. 26. An Act to vest the Court House at Halifax in Commissioners, and for other purposes.

Chap. 27. An Act to incorporate the Trustees of Mount Hope Cemetery, Annapolis.

Chap. 28. An Act to incorporate the Forest Hill Cemetery Association, Barrington.

Chap. 29. An Act to enable the Trustees of a School Section in the County of Cape Breton to borrow money.

Chap. 30. An Act to authorize the sale of Union Church, at Portapique, in the County of Colchester.

Chap. 31. An Act to establish an additional Polling District in the County of Cumberland.

Chap. 32. An Act to amend Chapter 56 of the Acts of 1875, in reference to the Lock-up at Port Mulgrave, in the County of Guysborough.

Chap. 33. An Act to change the names of certain Settlements in the County of Inverness.

Chap. 34. An Act to incorporate St. John's Evangelical Lutheran Church of Mahone Bay, Lunenburg County.

Chap. 35. An Act to incorporate St. Paul's Evangelical Lutheran Church, of Chester, Lunenburg County.

Chap. 36. An Act to enable the Municipality of Lunenburg to procure a Steam Fire Engine for the District of Bridgewater.

Chap. 37. An Act to amend the Act to incorporate the Town of New Glasgow.

Chap. 38. An Act to further amend the Act incorporating the Town of Pictou and the Acts in amendment thereof.

Chap. 39. An Act to change the Boundaries of certain Polling Districts in the County of Pictou.

Chap. 40. An Act to incorporate the Upper Settlement West River Cemetery Company, Pictou County.

Chap. 41. An Act to amend the Act concerning Electoral Districts in the County of Queen's.

Chap. 42. An Act relating to the Boards of Health of Upper and Middle Stewiack.

Chap. 43. An Act to amend the Act to incorporate the Town of Truro.

Chap. 44. An Act to amend Chapter 49 of the Acts of 1876, intituled: "An Act to amend the Act to incorporate the Town of Truro."

Chap. 45. An Act to amend the Act to incorporate the Town of Windsor.

Chap. 46. An Act to further amend the Act to incorporate the Town of Windsor.

Chap. 47. An Act to provide for supplying the Town of Windsor with Water.

Chap. 48. An Act to confer certain powers on the Trustees of the Western Counties Railway Company.

Chap. 49. An Act to enable the Municipality of Yarmouth to redeem Bonds issued for payment of Railway damages.

Chap. 50. An Act to incorporate the Trustees of Lake George Baptist Church of Yarmouth.

Chap. 51. An Act to incorporate the Board of Management of Ministerial Relief and Aid Fund of the Baptist Convention of the Maritime Provinces.

Chap. 52. An Act to incorporate the American Oil Company (Limited).

Chap. 53. An Act to incorporate the Avondale Plaster Company (Limited).

Chap. 54. An Act to revive and continue the Act to incorporate the Bedford Grain Importation, Milling and Manufacturing Company (Limited).

Chap. 55. An Act to amend the Act to incorporate the Cape Breton Oil and Mining Company (Limited).

Chap. 56. An Act respecting the Crédit Foncier Franco-Canadien.

Chap. 57. An Act to amend the Act to incorporate the Union Protection Company of Dartmouth.

Chap. 58. An Act to incorporate the Halifax Electric Light Company (Limited).

Chap. 59. An Act to amend the Acts relating to the Halifax Fire Insurance Company.

Chap. 60. An Act to amend the Act to incorporate the Halifax Gas Light Company, and the Acts in amendment thereof.

Chap. 61. An Act to incorporate the Trustees of St. Andrew's Presbyterian Church, Halifax, in communion with the Presbyterian Church in Canada.

Chap. 62. An Act to incorporate the Committee of Management of the St. John's Presbyterian Church, in Halifax.

Chap. 63. An Act to incorporate the Women's Christian Temperance Union.

Chap. 64. An Act to incorporate the City of Halifax Graving Dock Company (Limited).

Chap. 65. An Act to incorporate the Inverness Oil and Land Company (Limited).

Chap. 66. An Act to incorporate the Londonderry Stove Works Company (Limited).

Chap. 67. An Act to incorporate the Maritime Reaper and Mower Company (Limited), of Hantsport, Hants County.

Chap. 68. An Act to incorporate the Montreal and Cape Breton Oil Company (Limited).

Chap. 69. An Act to incorporate the New Glasgow Water Company.

Chap. 70. An Act to incorporate the Nova Scotia Graving Dock Company (Limited).

Chap. 71. An Act to incorporate the Nova Scotia Wood Pulp and Paper Company (Limited).

Chap. 72. An Act to incorporate the Royal Standard Gold Mining Company.

Chap. 73. An Act to incorporate the Sydney and Louisburg Coal and Railway Company (Limited).

Chap. 74. An Act to incorporate the United States and Nova Scotia Investment Company (Limited).

Chap. 75. An Act to incorporate the Windsor Waterworks Company.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

(Signed) A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th February*, 1882.

The Committee of Council have had before them a Report dated 30th January, 1882, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Nova Scotia, in the year 1881, the 44th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapter 1 to Chapter 75 inclusively, save as regards Chapter 11—and that the Lieutenant-Governor of Nova Scotia, for the reasons mentioned in the Report of the Minister of Justice, be informed that unless the third Section thereof be repealed during the present Session of the Legislature of Nova Scotia, the Act would be disallowed, and Chapter 16, which will form the subject of a special Report.

Certified. J. O. COTÉ,
Clerk Privy Council.

Petition of the Windsor and Annapolis Railway.

WINDSOR AND ANNAPOLIS RAILWAY COMPANY,
GENERAL MANAGER'S OFFICE, KENTVILLE, N.S., 1st August, 1881.

SIR,—I beg to enclose, for your information, copy of the petition which my Company were advised to present to His Excellency the Governor General, praying

for the disallowance of the Act Chap. 16, passed at the last Session of the Legislature of Nova Scotia, intituled: "An Act to amend the Nova Scotia Railway Act, 1880."

I have, &c.,

P. INNES,
General Manager.

Hon. Sir CHARLES TUPPER, C.B.,
Minister of Railways and Canals,

To His Excellency the Governor General of the Dominion of Canada in Council:

The humble petition of the Windsor and Annapolis Railway Company, under their common seal, showeth:—

1. That by an Act of the Legislature of the Province of Nova Scotia, passed 2nd May, 1865 (28 Victoria, Chapter 13), intituled: "An Act to provide for the construction of two other Sections of the Provincial Railways," it was enacted that the Chief Commissioner of Railways, by direction and authority of the Governor in Council, might contract for and on behalf of the Province, with any responsible party or parties, for the construction of certain sections of the Provincial Railway, including the section from Windsor to Annapolis, on the terms and under the provisions in the said Act set forth, and it was enacted by Sections 7 and 8 of the said Act, as follows, that is to say:—

"7. The Governor in Council may, at any time before or after the said sections, or either of them, are or is completed, by an Order in Council, assume, on behalf of the Province, the ownership of the said sections, or either of them, by paying to the owners thereof the value of the same—to be ascertained as hereinafter provided, either in cash or Provincial debentures, at the option of the Governor in Council."

"8. The amount to be paid under the next preceding section shall be ascertained by the decision of three Arbitrators; one of whom to be appointed by the Governor in Council; one by the owner or owners of the section, and one by the Principal Secretary of State for the Colonies. But in case of either of the said sections being so taken before completion, regard may be had by the Arbitrators to the loss sustained by the contractors by means of such termination of their contracts."

2. By an agreement dated 22nd November, 1866, made between the Chief Commissioner of Railways of the Province of Nova Scotia, by the direction and authority of the Governor in Council of the said Province, of the first part, and William Henry Punchard, Frederick Barry and Edwin Clark, in this petition called "the contractors," of the other part, and which said agreement was expressed to be made in pursuance of the provisions of the said Act of 1865, the contractors agreed to construct the railway from Windsor to Annapolis upon certain terms and conditions in the said agreement expressed, and it was thereby provided that for the purposes of carrying out the same agreement, the contractors should have power to form a joint stock company, with such capital as might be necessary, for the purpose of enabling the contractors to sell and the company to purchase the railway and works therein contracted for, and to take the tolls and charges therein referred to. That when and so soon as such Company was formed and capital subscribed, as therein mentioned, the intended Company should possess the said railway and works subject to the terms of the said agreement.

3. By a memorandum and articles of association, dated the 26th February, 1867, and duly registered in England on the 1st of March, 1867, your petitioners were incorporated in England by the name of the Windsor and Annapolis Railway Company (Limited) for the purpose of acquiring the said railway and working the same, and for the other purposes in the said memorandum and articles of association expressed. The share capital of the company was fixed at £500,000, divided into 25,000 shares, of £20 each, with authority to borrow on bonds or debentures, or other security, to an amount not exceeding the aggregate sum of £200,000.

4. By an Act of the said Legislature, passed the 7th May, 1867 (30th Victoria, Chapter 36), intituled: "An Act to incorporate the Windsor and Annapolis Railway Company," after reciting the said Act of 1865 and the said agreement of the 22nd

November, 1866, the contractors, with others, were incorporated as the Windsor and Annapolis Railway Company (being your petitioners), for the purpose of constructing a railway from Windsor to Annapolis (which it was thereby enacted that your petitioners should own), and for such other purposes, and with such extended and additional powers, privileges and authorities, as in the said Act expressed and contained.

5. By an Act of the said Legislature, passed on the 14th June, 1869, intituled: "An Act to amend the Act to incorporate the Windsor and Annapolis Railway Company," the memorandum and articles of association above (in paragraph 3) referred to, were made binding and incorporated into the now reciting Act, with the powers therein referred to.

6. Under and in pursuance of the said Acts and agreement, and of divers other transactions which have been duly effected by your petitioners with the Government of Canada, and otherwise, your petitioners have constructed the said Windsor and Annapolis Railway and have acquired, in connection therewith, and as part of their undertaking, divers other rights and powers incident thereto or connected therewith (including certain rights hereinafter particularly referred to), and have laid out very large sums of money in constructing, establishing and carrying out their said railway and undertaking, and they are now lawfully possessed of the said railway (which has been and is duly operated by them) with such several rights and powers as aforesaid.

7. By virtue of the powers in that behalf given to your petitioners, sanctioned by the said Acts of the said Legislature, your petitioners issued debentures to the amount of £200,000, but their capital and funds proving insufficient for the purposes of the undertaking, they were compelled to incur sundry mortgage and other debts to a large amount beyond the amount of the said debentures, and ultimately, under a scheme of arrangement between your petitioners and their creditors, made in pursuance of an Act of the said Legislature, assented to on the 12th December, 1874, and entitled: "An Act to facilitate arrangements between Railway Companies and their Creditors," your petitioners, in order to meet their obligations, so incurred as aforesaid, have duly issued debenture stocks as follows, viz.:—"A" debenture stock for £75,000, and "B" debenture stock for £350,000, both bearing interest at the rate of 6 per cent. per annum. There have been also issued shares in your petitioners' Company to the amount of £301,500, which are still outstanding. Nearly all the said debenture stock and shares are held in England.

8. By "The Nova Scotia Railway Act, 1880," it was enacted (Section 2) that the provisions of the same Act, from Section 5 to Section 32, both inclusive, should apply to every railway constructed and in operation or thereafter to be constructed under the authority of any Act passed by the Legislature of Nova Scotia, and should, so far as they were applicable to the undertaking, be incorporated with the special Act authorizing the construction of the railway, unless they were inconsistent with or were expressly varied by the special Act or other Act of the said Legislature.

9. By an Act of the said Legislature, assented to on the 14th April, 1881, intituled: "An Act to amend the Nova Scotia Railway Act, 1880," certain provisions of the said Act of 1880 were repealed and varied, and by Section 7 it was enacted as follows:—

"7. In the case of any railway of which the Governor in Council is authorized by Statute or by any agreement or contract to assume the ownership, on paying the value of the same or compensation for any part or the whole of any outlay made thereon, and it is provided by the Statute, agreement or contract, that the amount of such value or compensation is to be ascertained by arbitration: The Governor in Council of Nova Scotia may enter into possession and hold such railway and assume the ownership thereof, and be vested with all the rights, property and powers intended by any such Statute, agreement or contract to be conferred on the Governor in Council on the assumption by the Governor in Council of the ownership of such railway, four weeks' notice being first given to the Company in possession of the said railway, or its President, Manager, Secretary or Agent in this Province or elsewhere,

of the name of the Arbitrator appointed by the Governor in Council. This enactment shall not take away the right of any Company to the compensation to which such Company may be entitled on the award being made under the provisions of any such Statute, agreement or contract, as is hereinbefore referred to."

10. Your petitioners are informed and believe that the last-mentioned Act was introduced into the House of Assembly of the said Province on the 13th April, 1881, without public notice, that the same was passed by the Assembly on the same day, that it was also passed by the Legislative Council on the same day, and assented to by His Honor the Lieutenant-Governor on the next day, the 14th April, 1881.

11. Under the circumstances aforesaid, your petitioners had no notice of the said Act or of the provisions thereof, until it had passed and been assented to, and had no opportunity of objecting to or opposing the same.

12. Section 7 of the said Act seriously prejudices the rights and property of your petitioners, and the interests of their shareholders and bondholders in respect of the said railway and undertaking, and your petitioners are greatly aggrieved by the passing, and strongly object to and would humbly protest against the allowance of the said Act.

13. In so doing it is not necessary for them to take notice of various questions which arise (having regard to the matters hereinbefore stated, and divers other considerations) as to whether the option of purchase given by the said Act of 1865 is now continuing or operative, or whether, if so, it is not vested in the Dominion Government, or whether the said Act of 1881 is not in whole or in part *ultra vires* of the Legislature of Nova Scotia. Whether there may or may not be any railways in Nova Scotia differently situated from your petitioners' railway, and to which Section 7 of the said Act may apply, there can be no doubt that it has been enacted with the object and intention of being applied and put in force with respect to the railway and undertaking of your petitioners. Under such circumstances, they submit that they are entitled to claim of Your Excellency due consideration and protection of their rights, without reference to mere legal considerations. They conceive, indeed, that these, so far from weakening, might well serve to strengthen the grounds of this petition. But it is enough here to deal with the Act in question in the apparent sense and object in which it has been framed.

14. Your petitioners have no desire to impede any action which may be deemed beneficial to the interests of the Dominion of Canada or the Province of Nova Scotia. On the other hand, if upon terms fair and just towards them and their interests, and in a mode not invading their rights, it should be deemed expedient that the Government should acquire their undertaking, they would be prepared to concur in that decision, although it might interfere in some measure with their realizing at last, and after a long period of effect, the reasonable expectations of profit which induced them to undertake their enterprise. But they cannot consent to be dispossessed of their property and rights in a mode (as provided by the said Act) which would in effect enable the Provincial Government to oust your petitioners at any time upon four weeks' notice, and deprive them of any security that before they are dispossessed there shall be ascertained and paid a fair and adequate price in respect of their railway, and the property, rights and advantages forming part of their undertaking.

15. The provisions above referred to, of the Act of 1865 (assuming them to apply to their undertaking) afford your petitioners (as they are advised) a security essential to their interests, viz., that such undertaking can only be assumed by the Government thereunder upon the value thereof being actually ascertained and paid to your petitioners as thereby provided.

16. That security was and is the more essential by reason that in many respects the provisions of the said Act of 1865 are vague and imperfect, and it has become still more so by reason of the changes which have since taken place in the constitution and position of the Province of Nova Scotia, the extension and position of your petitioners's undertaking, the various rights acquired by them, and the moneys laid out by them in respect thereof, involving considerations too numerous and complicated to be herein detailed; but which must make the due provision for and enforce-

ment of your petitioners's right in the mode provided for by the Act of 1865, uncertain and difficult.

17. Under such circumstances, the reservation expressed to be made by the last clause of Section 7 of the said Act of 1881, as to "the right of any Company" would (as your petitioners are advised) be ineffectual, if not wholly nugatory, to afford to them due protection for their interests in case, under the earlier provisions of that section, they should be dispossessed of their railway.

18. Amongst other special circumstances affecting the position of your petitioners and their undertaking, which, as they conceive, would make the provisions of the said Section 7 especially unjust, as to them, is the fact that your petitioners are engaged in litigation with respect to certain rights of great value, derived by them from the Government of Canada, as to which (without entering upon matters of detail or of controversy) it appears desirable to state as follows:—

19. Your petitioners claim to be entitled, under agreement entered into with the Government of Canada on behalf of Her Majesty, in the first instance, in the month of September, 1871, and again (by way of confirmation and compromise of various disputed claims, and in consideration of large outlay and important concessions on their part) in the month of June, 1875, the exclusive right to use the branch line from Windsor to Windsor Junction, and also running powers over the trunk line from Halifax to Windsor Junction. Those rights are of the utmost value to your petitioners, in connection with their own railway and as part of their undertaking. In the month of August, 1877, however, they were (unlawfully, as they contend) dispossessed and excluded by the officers of the Government from the use of the said branch railway and the exercise of the said running powers, and soon afterwards the branch railway was handed over by the Government to the Western Counties Railway Company. Thereupon your petitioners took legal proceedings against that Company in the Supreme Court of Nova Scotia, to establish their right to the said branch railway, and afterwards (being advised that they could not obtain a complete and effectual remedy in the premises, except as against the Crown) your petitioners caused Her Majesty's Attorney-General for Canada to be joined as a Defendant in the said suit, and also proceeded, by way of petition of right, against Her Majesty, in order to enforce specifically the said agreements, and to obtain redress for the breach thereof.

20. Such proceedings are still pending, and though thus far your petitioners have been successful in establishing their rights, as claimed in the said suit, the final decree in their favor, of the Supreme Court of Nova Scotia, has been carried on appeal, at the instance of the said Attorney-General, to the Court of Appeal of Canada, and, at the instance of the said Western Counties Company, to Her Majesty in Council. The proceedings on the petition of right have as yet only been proceeded with so far as that a demurrer put in thereto on the part of the Crown has been overruled.

21. In the meantime, the Government of Canada having retaken possession of the said Windsor Branch Line from the Western Counties Company, have placed your petitioners again in possession thereof, under a new and temporary arrangement, without prejudice to any question in the said litigation.

22. Under the circumstances aforesaid, and having regard to the great importance of the claims so made by your petitioners, it would be especially injurious to your petitioners' rights and interests that any new power should be given to the Government to take and acquire your petitioners' undertaking, while they are still in litigation.

23. Your petitioners further submit that the operation and effect of Section 7 of the said Act of 1881 would be so unjust to them and to their bondholders and shareholders (who have invested large sums of money on the faith that their rights and interests would be duly maintained and protected by law) and that it is contrary to equity and universal practice to deprive and expropriate the lawful owners of property, even for objects of public benefit, without first effectually providing for, ascertaining and paying the full value and compensation in respect of property so taken,

that the provisions of the said Act of 1881 are inexpedient in the public interest, and, if carried into effect, would tend to lower the credit and reputation, in England, of the Dominion, and is contrary to public policy, and ought to be disallowed.

Your petitioners, therefore, humbly pray that the said Act of 1881 may be disallowed.

And your petitioners will ever pray, &c.

The Common Seal of the Petitioners was hereunto affixed in the City of London on the 18th day of July, 1881, in the presence of

Seal of the Company

JOHN K. JACOMB-HOOD, *Chairman.*
W. R. CAMPBELL, *Secretary.*

PROVINCIAL SECRETARY'S OFFICE,
HALIFAX, N. S., 17th September, 1881.

DEAR SIR,—An Act to amend the Nova Scotia Railway Act of 1880 was passed in the last Session of the Legislature of this Province, and its disallowance having being petitioned for by the Windsor and Annapolis Railway Company, a Report on the questions involved has been made by the Attorney-General. I beg to enclose you a copy of this Report, for your information, and with the request that you will examine into the merits of the controversy, and assist in procuring the allowance of the Act, if you can do so consistently with your views of justice and propriety, as its final passage is a matter of great importance, in the present position of railway affairs in Nova Scotia.

I have, &c.,

S. H. HOLMES,
Provincial Secretary.

Hon. Sir CHARLES TUPPER, K.C.M.G.,
Minister of Railways and Canals, Ottawa.

Report of Mr. Attorney-General Thompson.

ATTORNEY-GENERAL'S OFFICE, HALIFAX, N. S., 31st August, 1881.

The undersigned has had before him the petition of the Windsor and Annapolis Railway Company to His Excellency the Governor General in Council, dated the 18th day of July, 1881, praying that the Act of the Legislature of Nova Scotia, passed on the 14th day of April, 1881, entitled: "An Act to amend the Nova Scotia Railway Act of 1880," or certain portions thereof, be disallowed, and begs to report thereon for the information of His Honor the Lieutenant-Governor, as follows:—

The statements contained in the first four paragraphs of the petition of the Windsor and Annapolis Railway Company are admitted to be correct, but the undersigned must call attention to the fact that the two sections of Chapter 13 of the Nova Scotia Acts of 1865, which are quoted in the first clause of the petition, and indeed all other provisions of said Chapter 13, of 1865, which have any bearing upon the subject-matter, are made applicable to and incorporated in the Charter of the Windsor and Annapolis Railway Company by the terms of that Charter. (Chapter 36, of the Nova Scotia Act of 1867).

It is submitted, therefore, that all the undertakings, operations and expenditures made by the Company, or any other person, on the security of the Company's property, must be considered as having been made with a view to these provisions of

Chapter 13, of 1865, in relation to which the Act sought to be disallowed, is merely auxiliary.

The circumstances which led to the introduction and passage of the Act petitioned against are, briefly, these:—

The railway system of Nova Scotia (apart from the railways owned by the Dominion of Canada) consists of various lines, operated under different managements, the line of the petitioning Company being one. It has been long considered desirable, in the interests of the Government of Nova Scotia and of the public at large, to combine these lines of railway under one management, if that can be accomplished without entailing too heavy burdens upon the Province, or operating unjustly to those who now have interests in the railways. The only practicable mode of carrying out any such policy would be to exercise, in relation to this Company's railway, on behalf of and under the authority of the Government of Nova Scotia, the powers conferred by Sections 7 and 8 of Chapter 13, Nova Scotia Acts of 1865, quoted in the first clause of the petition; and, in relation to the other railways, to exercise other powers, some of them of a like character, possessed by the Nova Scotia Government.

The undersigned submits that the powers conferred by Sections 7 and 8 are vested in the Government of Nova Scotia alone. They were undoubtedly possessed by the Government of Nova Scotia, as constituted prior to the union of the Provinces. When the union was consummated the railway in respect of which these sections were enacted remained a local undertaking, within the Province, and in regard to it the Parliament of Canada had no authority to legislate, without, at any rate, first enacting that it was a railway for the general benefit of Canada, which has never been done. The undersigned for the present bases his contention, as regards the rights of the Government of Nova Scotia, upon these general principles, and thinks he may fairly do so, as the petition of the Windsor and Annapolis Railway Company waives any discussion of this point, although suggesting that doubts may exist in relation to it.

No Legislation exists expressly, or by necessary implication, abrogating Sections 7 and 8, Chapter 13, Nova Scotia Acts, 1865.

The undersigned therefore submits that the Legislation effected by the Statute petitioned against, is clearly within the competence of the Nova Scotia Legislature.

As regard the fairness of the statutory provisions objected to, the following observations are offered:—

It has been found, on a full consideration of the policy before referred to, that although it should be conceded that Sections 7 and 8, Chapter 13, Nova Scotia Acts, 1865, are in full force, and applicable to this Company's Railroad, and that the powers therein conferred are now possessed by the Government of Nova Scotia, great practical difficulty may exist in carrying out these sections, if the Company should be disposed to resist their operation, and should refuse, neglect, or delay to make the appointment of an Arbitrator, or to comply with the award. Hence it was desirable to supply by Statute the details required by the spirit and principle of the two sections of the Act of 1865, if such could be done without injury to the rights or property possessed by the persons or companies who might be interested in the railroads subject to these two sections, or to any kindred provisions of Statutes or contracts. The Act petitioned against, it is submitted, does not enlarge the principle of the two sections of the Act of 1865, or vary in any way the provisions of those sections, nor does it invade or destroy any rights possessed by any companies or persons whomsoever, excepting by depriving them of the power to obstruct the due and fair execution of Sections 7 and 8 of the Act of 1865. It expressly reserves the rights of any Company to the compensation to which such Company may be entitled under any award that may be made, and therefore confers upon the petitioning Company the same rights and remedies as are possessed by any public creditor, and it may be fairly contended that Sections 7 and 8 contemplated no other rights and remedies being given or reserved, because it gave to the Government the option of paying for the railroad in Provincial debentures. The Statute petitioned against can be said to be very little more than a Statute providing for the mode in which Sections 7 and 8

of the Act of 1865 are to be carried into practical operation, and the mode provided is the one usually adopted in such cases. It is a matter of every day practice, when by contract or Statute an arbitration is provided for, to provide, by a subsequent contract or statute, the mode in which the Arbitrators shall be appointed, and their award enforced; and it is a matter of every day experience in the Legislation of all the Provinces, and of the Dominion, that the expropriation of property by a summary method is provided for, the right of compensation being reserved and provided for as it is in the Statute petitioned against.

In relation to the statement contained in the 10th clause of the Company's petition, the undersigned cannot but remark that the Company's advisers have been under some serious misapprehension of the facts when they asserted that the Statute petitioned against was introduced into the House of Assembly on the 13th April, 1881, without public notice, and was passed by the Assembly on the same day, and that it was also passed by the Legislative Council on the same day, and assented to by His Honor the Lieutenant-Governor on the next day. It has never been the practice in the Nova Scotia Legislature to give public notice of the introduction of a public Bill, such as this unquestionably was. The Bill was introduced (under the title under which it was finally assented to) by the leader of the Government into the House of Assembly on the 7th April, 1881, when it was read a first time, and ordered to be read a second time. On the 8th April, 1881, it was read a second time, and committed to the Committee of the Whole House. On the 12th April, 1881, it passed the House in Committee of the Whole, and on the 13th April, 1881, it was read a third time, and sent to the Legislative Council for their concurrence. The Legislative Council passed the Bill 13th April, 1881, and it was assented to the next day.

The undersigned is informed that the agent and representative of the Windsor and Annapolis Railway Company had notice that a Bill to amend the Nova Scotia Railway Act of 1880 would be introduced long before the Bill was actually introduced.

With respect to the 18th, 19th, 20th, 21st and 22nd Sections of the Company's petition, the undersigned submits that the assertions there made are not relevant to the subject under discussion. The arbitration intended to be enforced by the Statute petitioned against does not relate to or affect the branch line from Windsor to Windsor Junction, nor does the Statute confer any rights or powers on the Nova Scotia Government in respect to that branch, nor is it in any way applicable thereto. If the petitioning Company should succeed in establishing any right in relation to the Windsor Branch, that right must be acquired by the Nova Scotia Government, either by contract or by valuation, and it is not intended to be invaded, and, the undersigned submits, will not be invaded, lessened or impaired by the Statute sought to be disallowed. The litigation referred to in the petition as arising out of the position of the Windsor Branch, is not in any way interfered with by the Statute.

In conclusion, the undersigned submits that all the contentions made in the closing paragraph of the petition can be successfully controverted. The contention that the rights of bondholders and shareholders who have invested large sums of money on the faith that their rights and interests would be duly maintained and protected by law, will be invaded by this Statute, is found to be unsustained when it is seen that these investments were made with distinct notice contained in the Charter of the petitioning Company, that the investments would be subject to Sections 7 and 8 of the Act of 1865. The contention that it is contrary to equity and universal practice to deprive and expropriate the lawful owners, of their property, even for objects of public benefit, and without first effectually providing for, ascertaining, and paying the full value and compensation in respect to properties so taken, is surely unwarranted in its application to this Statute, when it is considered that the right to value and compensation is secured by the Statute itself, and by the Statute of 1865, and when it is considered that the mode of ascertaining the "full value and compensation" provided for in the Act of 1865 is left unimpaired, and is practically the same as that usually applied in the expropriation of property for public purposes. Nearly all the public works of the Province, including the Windsor and Annapolis Railway, have been constructed on lands expropriated, and only valued and paid for

long after they had been taken possession of, for the purposes for which they were expropriated.

All of which is respectfully submitted.

JOHN S. D. THOMPSON,
Attorney-General.

WINDSOR AND ANNAPOLIS RAILWAY COMPANY,
GENERAL MANAGER'S OFFICE, KENTVILLE, N. S., 1st November, 1881.

SIR,—On 1st August last I sent you a copy of a petition which my Company had forwarded to the Secretary of State, praying that the Governor General in Council would disallow an Act of the Nova Scotia Legislature, which purported to authorize the Provincial Government compulsorily to assume possession of my Company's railway upon twenty-eight days' notice, and before either its value had been determined, or the price paid, as was provided in the Charter.

The Attorney-General of Nova Scotia prepared a Report in answer to the said petition, which is very misleading and only deals with what he assumes to be general principles, avoiding the real and important points at issue. My Directors have accordingly thought it proper to supplement their original petition by certain observations on the Report of the Provincial Attorney-General, of which I send you a copy herewith.

The time occupied in communicating with my Directors in England will account for the delay in sending in this document, and I take the liberty of requesting that when the matter comes to be disposed of, this document is made part of our case, and has consideration accordingly.

I have, &c.,

P. INNES,
General Manager.

Hon. Sir CHARLES TUPPER, C.B.,
Minister of Railways, Ottawa.

REPLY *of Windsor and Annapolis Railway.*

To His Excellency the Governor General of the Dominion of Canada in Council.

In the matter of the Act of the Nova Scotia Legislature, assented to 14th April, 1881, intituled: "An Act to amend the Nova Scotia Railway Act, 1880."

Observations of the Windsor and Annapolis Railway Company on the Report of the Attorney-General of Nova Scotia, dated 31st August, 1881, on the Company's petition for disallowance of the above Act.

In reply to the Report of the Attorney-General for the Province of Nova Scotia, your petitioners desire to make the following observations:—

1. Even if your petitioners are bound to surrender their line to the Government of Nova Scotia, as insisted on by the Attorney-General, they are only bound to do so upon the terms of the 7th and 8th Sections of 28 Vic., Chap. 13. It was with full notice of and in reliance on those sections that the bondholders and shareholders laid out their money, according to the statement of the Attorney-General himself, and what your petitioners object to in the Act petitioned against is, that it alters and renders nugatory the provisions of those sections.

2. Your petitioners feel bound to call the attention of the Governor General in Council to the very grave questions involved in the claim of the Government of Nova Scotia to assume the ownership of this railway which the Attorney-General has

lightly passed over, after stating certain alleged general principles upon which the claim is founded. The British North America Act, by the joint effect of Section 108 and Schedule 3, vested in the Dominion all the property in railways belonging to the several Provinces, and the intention is, it is submitted, clear that all rights over Provincial railways, except such as were vested in private individuals or companies, should vest in the Dominion. The question whether rights, such as that now under consideration, passed to the Dominion Government under those provisions, is of moment, not only to the Dominion and Provincial Governments, but to the other parties interested in them. It is submitted that the right in question was a contingent equitable right of property in the railway, and as such passed to the Dominion under the terms of the said section of the British North America Act. It need hardly be pointed out that if the right of purchase is now vested in the Dominion, the Act petitioned against would, upon all the principles maintained by the Dominion Government in their litigation with the Windsor and Annapolis Railway Company, be *ultra vires* of the Nova Scotia Legislature.

3. Your petitioners desire to point out that the Dominion Government, in its dealings and litigation with your petitioners, has always claimed to act upon and legislate with respect to the other portions of the Charter under which your petitioners' railway was built, and they submit that that Charter cannot be enforced partly by the Dominion and partly by the Provincial Government.

4. Further it appears, from the provisions of 28 Vic., Chap. 13, that the power to assume possession of the railway granted to the Provincial Government by the 7th and 8th Sections was granted to them as the owners of other portions of the Provincial railways already made, and to enable them to work the Provincial railways as a whole if they thought fit. The other portions of the Provincial railways which were vested in the Provincial Government have admittedly been transferred to the Dominion Government, and your petitioners submit that the right to purchase this section of the Provincial railways, of which your petioners are owners, must now be vested in the Dominion Government, or should otherwise be held to have lapsed, the object of the provisions having been rendered impossible by the Act of the Imperial Legislature.

5. Even if the Nova Scotia Government are entitled to avail themselves of the provisions of the 7th and 8th Sections of 28 Vic., Chap. 13, the great injustice that will be inflicted upon your petitioners by the Act in question, if sanctioned, sufficiently appears from the Attorney-General of Nova Scotia's own statement, that if the Company refuses to appoint an Arbitrator, the Arbitration provided by 28 Vic., Chap. 13, Secs. 7 and 8, cannot be carried out. The effect of the Act in question will be to deprive the Windsor and Annapolis Railway Company of any means of obtaining compensation, except under such an arbitration, and although the Act provides for the appointment of an Arbitrator by the Government, there is no means provided for your petitioners of enforcing the appointment of the third Arbitrator by the Principal Secretary of State for the Colonies, nor is there any provision for the death or refusal to act of either of the Arbitrators, or their failure to agree. Your petitioners, therefore, have no security under the Act that they will be able to obtain the award which is made a necessary condition of their obtaining any compensation. The bondholders and shareholders provided their money on the faith of the provisions that they should not be deprived of the railway without compensation having been first paid to them, and not upon the chance of successful issue of such an arbitration.

6. Even if the Arbitrators should be appointed, and an award eventually made in accordance with the provisions of said sections, great hardship and injustice would still result to the Windsor and Annapolis Railway Company; for, while their income available for the payment of debenture holders and shareholders would cease as soon as the railway was taken possession of by the Government, the amount payable for compensation would not be available till the conclusion of the arbitration. Such an arbitration would in this case be necessarily protracted, for the value of the railway could not be ascertained till after the final determination of the litigation at present proceeding between your petitioners and Her Majesty's Attorney-General for Canada

It is submitted that it is entirely erroneous to suppose that the value of the rights of your petitioners in the Windsor Branch could be separately valued and purchased, as suggested by the Attorney-General of Nova Scotia. The value of the Windsor and Annapolis Railway itself must very largely depend upon whether it is merely a local line, having no access beyond Windsor, and to the Intercolonial Railway, or whether it has running powers over the Windsor Branch and Trunk Line into Halifax.

7. It is submitted that the above considerations show that the Attorney-General for Nova Scotia is in error in representing the Act in question as merely providing for the mode of carrying out an arbitration already existing. Such an Act would merely give additional powers and privileges to the parties concerned; the Act petitioned against takes away from the Windsor and Annapolis Railway Company, the right to hold their railway till its value has been paid to them, without making any compensation to them for the loss of so valuable a right. It is further submitted that the Act fails to provide any efficient means of appointing the Arbitrators and enforcing their award, which are its alleged objects.

8. Your petitioners further submit that the Act in question is wholly unnecessary —that there is no ground for saying that the Windsor and Annapolis Railway Company are unwilling to enter into reasonable arrangements with the Provincial Government for the transfer to them of their railway for a fair consideration, and if they were so, it is submitted that the said Railway Company could be compelled by mandamus to appoint an Arbitrator, under the provisions of 28 Vic., Chap. 16, Secs. 7 and 8, and that the Provincial Government would not meet with the difficulty which your petitioners might, in obtaining the appointment of the third Arbitrator by the Imperial Government. If even it be necessary to avoid the delay of the arbitration and give statutory powers to enable the Provincial Government to take immediate possession of your petitioners' railway, this might be done without inflicting the hardships complained of, by an Act containing provisions analogous to those of the Land Clauses Consolidated Act, 1845 (8 Vic., c. 18, s. 85), and providing that the Government should pay to your petitioners the value of their property, and all its appurtenances, rights, &c., as estimated by competent, independent persons, before taking possession of it; or by an Act corresponding with the Acts under which the property of the British telegraph companies were acquired by the Imperial Government, which contained clauses defining in principle the amount of compensation to be paid, which had previously been agreed upon with the companies. In either case the Act should provide the Company with the means of asserting their right to any sum claimed by them, in addition to the amount paid by the Government, by an arbitration under conditions which should secure to the Company the means of obtaining a valid award.

9. Your petitioners desire to point out, that by the admissions of the Attorney-General for Nova Scotia, the Act was carried through both Houses, and received the assent of the Lieutenant-Governor in seven days. Your petitioners only became aware of it on the day before it received the assent, and their agent was then expressly assured by the Honorable S. H. Holmes, on the part of the Provincial Government, that it did not affect the Company. Your petitioners had, therefore, no opportunity of pointing out, during the passing of the Act, the injurious effect that its provisions would have upon their property, and so obtained such modifications as would have protected their rights in the premises.

All of which is respectfully submitted.

THE WINDSOR AND ANNAPOLIS RAILWAY CO.

Per P. INNES,
General Manager.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, CANADA, OTTAWA, 2nd March, 1882.

To His Excellency the Governor Genéral in Council :

The undersigned has the honor to report, with respect to an Act passed by the Legislature of Nova Scotia, in the year 1884, intituled : " An Act to amend the Nova Scotia Railway Act, 1880," as follows :—

The Windsor and Annapolis Railway Company have petitioned for the disallowance of this Act on the ground mentioned in their petition.

A copy of the petition was transmitted to the Government of Nova Scotia for their remarks, and a reply has been received signed by the Attorney-General.

A copy of this reply was duly transmitted to the Windsor and Annapolis Railway Company, and the observations thereon by that Company have been received.

After consideration of the matter, and the various questions involved, the undersigned is of opinion that the power of disallowance should not be exercised with respect to this Act, and he recommends accordingly.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March,* 1882.

The Committee of Council have had under consideration a Report dated 2nd March, 1882, from the Minister of Justice, with respect to an Act passed by the Legislature of Nova Scotia, in the year 1881, intituled: " An Act to amend the Nova Scotia Railway Act, 1880."

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to the said Act, and, therefore, that it be left to its operation.

(Certified) J. O. COTÉ,
Clerk Privy Council.

NOVA SCOTIA, 45TH VICTORIA, 1882.

4TH SESSION—27TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General in Council.

The undersigned having had under consideration the following Acts passed by the Legislature of the Province of Nova Scotia in the Session of 1882, recommends that they be left to their operation.

Chap. 1. An Act further to amend the County Incorporation Act of 1879.

Chap. 2. An Act to facilitate the disposal of arrears in the Docket of the Supreme Court of Nova Scotia, and for other purposes.

Chap. 3. An Act to remove disqualifications of Judges, Justices and other Judicial Officers in certain Cases.

Chap. 4. An Act to amend the laws relating to Crown Lands.

Chap. 5. An Act to amend Chapter 9 of the Revised Statutes, 4th Series, "Of Mines and Minerals."

Chap. 6. An Act to amend Chapter 10 of the Revised Statutes, 4th series, "Of the Regulations of Mines."

Chap. 7. An Act to amend Chapter 23 of the Revised Statutes, "Of Townships, certain County and Township Officers."

Chap. 8. An Act to amend Chapter 32, Revised Statutes, "Of Public Instruction."

Chap. 9. An Act to amend Chapter 40, Revised Statutes, "Of Commissioners of Sewers, and of Dyked and Marsh Lands."

Chap. 10. An Act to amend Chapter 103 of the Revised Statutes, 4th Series, "Of the Sale of Lands under Foreclosure of Mortgage."

Chap. 11. An Act further to amend the laws relating to Elections.

Chap. 12. An Act to confirm the Rota made for the present year, under the Act for the prevention of corrupt practices at Elections.

Chap. 13. An Act to amend the Act for the prevention of frauds on Creditors by secret Bills of sale.

Chap. 14. An Act to extend the right of taking security of Guarantee Companies.

Chap. 15. An Act to amend the Act to amend and consolidate the Laws relating to the "Preservation of useful Birds and Animals.

Chap. 16. An Act to amend Chapter 27 of the Acts of 1879, intituled: "An Act relating to the taxation of Cotton Mills."

Chap. 17. An Act in relation to the Education of the Blind.

Chap. 18. An Act to prevent and punish Wrongs to Children.

Chap. 19. An Act to legalize Jury Lists and Panels, and Assessment Rolls for the present year.

Chap. 22. An Act to amend the Acts relating to the Nictaux and Atlantic Railway.

Chap. 23. An Act to incorporate the Great American and European Short-Line Railway Company.

Chap. 24. An Act for defraying certain expenses of the Local Government of this Province.

Chap. 25. An Act to amend Chapter 81 of the Acts of 1864, intituled: "An Act concerning the City of Halifax," and the Acts in amendment thereof.

Chap. 26. An Act to amend certain Acts relating to the City of Halifax.

Chap. 27. An Act to authorize the completion of the North Common Sewer in the City of Halifax.

Chap. 28. An Act to incorporate, for certain purposes, the Senate of the Presbyterian College, Halifax.

Chap. 29. An Act to authorize a Loan for the Municipality of Annapolis.

Chap. 30. An Act to authorize the sale of a portion of the Town Marsh at Annapolis.

Chap. 31. An Act to amend Chapter 48 of the Acts of 1877, relating to Electoral Districts in the County of Colchester.

Chap. 32. An Act to authorize the sale of Union Church, at De Bert, in the County of Colcester.

Chap. 33. An Act to enable the Municipality of Cumberland to assess the Amherst Fire District for certain purposes.

Chap. 34. An Act to change the name of the Settlement of Goose River, in the County of Cumberland.

Chap. 35. An Act to change the name of a Settlement in the County of Cumberland.

Chap. 36. An Act to amend the Act to authorize the removal of an Aboiteau across the La Planche River.

Chap. 37. An Act to enable the Town of Dartmouth to grant a Subsidy and levy an assessment for the same, in aid of the extension of the Railway into the Town.

Chap 38. An Act to establish an additional Polling District in the County of Guysborough.

Chap. 39. An Act to provide for the rebuilding of Milford Haven Bridge, in the County of Guysborough.

Chap. 40. An Act to divide a Polling District in the County of Hants.

Chap. 41. An Act to add a Polling District in the County of Inverness.

Chap. 42. An Act to change the Boundaries of Polling Districts in the County of Inverness.

Chap. 43. An Act to authorize the Municipality of the County of Inverness to borrow money.

Chap. 44. An Act to provide for the Return of Writs of Summons and Writs of Execution, in the County of Lunenberg.

Chap. 45. An Act to amend the Act to incorporate the Town of New Glasgow.

Chap. 46. An Act to further amend the Act to incorporate the Town of New Glasgow.

Chap. 47. An Act to further amend the Act to incorporate the Town of Pictou, and the Act in amendment thereof.

Chap. 48. An Act further to amend the Act concerning Electoral Districts in the County of Queen's.

Chap. 49. An Act to add a Polling District in the Municipality of Barrington, County of Shelburne.

Chap. 50. An Act to amend the Acts for the reconstruction of Polling Districts in the Municipality of Shelburne.

Chap. 51. An Act to enable the Municipality of Shelburne, in the County of Shelburne, to borrow Money.

Chap. 52. An Act to establish an additional Polling District in the County of Victoria.

Chap. 53. An Act to amend Chapter 47 of the Acts of 1881, intituled: "An Act to provide for supplying the Town of Windsor with Water."

Chap. 54. An Act to legalize the proceedings of a School Meeting in the County of Yarmouth.

Chap. 55. An Act to amend Chap. 30 of the Acts of 1865, intituled: "An Act to enlarge the powers of the Trustees, Governors and Fellows of Acadia College.

Chap. 56. An Act to incorporate the Annapolis Royal Rink Company (Limited.)

Chap. 57. An Act to consolidate and amend the Acts relating to the Roman Catholic Episcopal Corporation of Arichat.

Chap. 58. An Act to incorporate the Atlantic Sugar House Company (Limited.)

Chap. 59. An Act to confer certain powers on the Bell Telephone Company of Canada.

Chap. 60. An Act to incorporate the Cranberry Gold Mining Company.

Chap. 61. An Act to incorporate the Eastern Development Company (Limited.)

Chap. 62. An Act to incorporate the Gates Organ and Piano Company (Limited.)

Chap. 63. An Act to incorporate the Hopewell Woollen Mills Company (Limited.)

Chap. 64. An Act to amend the Act to incorporate the Alumni of King's College, Windsor.

Chap. 65. An Act to confirm the admission of William B. McSweeny to the Bar of Nova Scotia.

Chap. 66. An Act to incorporate the Draw Cut Mower Company (Limited.)

Chap. 67. An Act to incorporate the Micmac Mining Company (Limited.)

Chap. 68. An Act to incorporate the Nictaux Iron and Steel Company (Limited.)

Chap. 69. An Act to incorporate the Nova Scotia Cotton Manufacturing Company (Limited.)

Chap. 70. An Act to amend the Act to incorporate the Nova Scotia Sugar Refinery (Limited.)

Chap. 71. An Act to incorporate the Trustees of Oak Island Cemetery, Maitland.

Chap. 72. An Act to incorporate the Mystic Lodge, No. 18, Independent Order of Oddfellows.

Chap. 73. An Act to incorporate the Pictou Oil Company.

Chap. 74. An Act to incorporate the Grand Council of the Provincial Workmen's Association.

Chap. 75. An Act to incorporate the Round Hill Woodenware Company (Limited.)

Chap. 76. An Act to incorporate the St. Croix Woollen Manufacturing Company (Limited.)

Chap. 77. An Act to incorporate the Governor of St. François Xavier's College.

Chap. 78. An Act to incorporate the Shelburne Sheep-raising Company (Limited.)

Chap. 79. An Act to incorporate the Welcome Lodge of British Templars, Shubenacadie.

Chap. 80. An Act to incorporate the North Sydney Gas and Electric Light Company (Limited.)

Chap. 71. An Act to incorporate the North Sydney Water Works Company (Limited.)

Chap. 82. An Act to incorporate the Hardwood Hill Cemetery Company, Sydney.

Chap. 83. An Act to revive and amend the Act to incorporate the Sydney Coal Mining Company.

Chap. 84. An Act to incorporate the Sydney Gas and Electric Light Company (Limited)

Chap. 85. An Act to incorporate the Sydney Water Works Company (Limited.)

Chap. 86. An Act to amend the Act to incorporate the Uniacke Union Gold Mining Company.

Chap. 87. An Act to provide for winding up the affairs of the Victoria Coal Mining Company.

Chap. 88. An Act to incorporate the Trustees of the Milton Baptist Church, Yarmouth.

Chap. 89. An Act to incorporate the Yarmouth Gas Light Company.

Chap. 90. An Act to incorporate the Yarmouth Woollen Mill Company.

In regard to Chapter 20, intituled: "An Act for the consolidation of the Nova Scotia Railways," and Chapter 21, intituled: "An Act to amend the Nova Scotia

Railway Act of 1880, and the Act in amendment thereof," the undersigned observes that they were left to their operation by Order in Council of the 24th April last.

Subsequently the Windsor and Annapolis Railway Company petitioned for the disallowance of Chapter 20, but by Order in Council of the 6th October last it was determined to take no further action in respect thereof.

The undersigned recommends that the attention of the Lieutenant-Governor of Nova Scotia be called to the provisions of Chapter 61, intituled: "An Act to incorporate the Eastern Development Company" (Limited), and Chapter 73, intituled: "An Act to incorporate the Pictou Oil Company."

These Acts purport to give the Companies incorporated by them very large and general powers, among others to build, own and possess ships and steamboats to carry merchandise, supplies and products to and from the site of the Company's operations, and for all other purposes.

Admitting for the present that the incorporation of a Company to own ships within the Province is a Provincial object, the authority should be given with such limitations as not to conflict with Section 91, Paragraph 29, and Section 92, Paragraph 10, of the British North America Act, 1867.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th February,* 1883.

The Committee of the Privy Council have had under consideration a Report, dated 13th February, 1883, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Nova Scotia in the Session of 1882, the 45th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapter 1 to Chapter 90 inclusively, and they further advise that the attention of the Lieutenant-Governor of Nova Scotia be directed to the observations of the Minister of Justice, and more especially upon the provisions of Chapters 61 and 73 respectively.

JOHN J. McGEE.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA. 17th April, 1882.

To His Excelleney the Governor General in Council:

Upon the reference to the undersigned of the Acts passed by the Legislature of the Province of Nova Scotia at its last Session, intituled respectively: Chapter 20. "An Act for the consolidation of Nova Scotia Railways."

Chapter 21. "An Act to amend the Nova Scotia Railway Act of 1880, and the Act in amendment thereof."

The undersigned has the honor to report,—

That he communicated with the Minister of Railways and Canals, inquiring whether, in the opinion of the Minister, the recitals in the first named Act, relating to the Railways owned by the Dominion Government, contained statements respecting

the rights of the Province not in accord with the rights admitted to exist by this Government; also, whether, in his opinion, the policy of the Act referred to conflicts in any way with the Railway Policy of the Dominion.

A reply has been received, that in the opinion of the Minister of Railways and Canals there is nothing in the recitals of the Act to which exception need be taken, and that he does not consider that the policy of the Act in any way contravenes that of the Dominion Government.

The undersigned has the honor to recommend that the two Acts referred to be left to their operation.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th April*, 1882.

The Committee of Council have had under consideration a Despatch from the Lieutenant-Governor of Nova Scotia, transmitting certified copies of two Acts passed by the Legislature of the Province of Nova Scotia at its Session in 1882, intituled respectively: "An Act for the consolidation of Nova Scotia Railways" and "An Act to amend the Nova Scotia Railway Act of 1880, and the Act in amendment thereof."

The Minister of Justice, to whom the said Despatch of the Lieutenant-Governor, with the enclosures were referred, reports that he communicated with the Minister of Railways and Canals, enquiring whether in the opinion of the Minister the recitals in the first named Act relating to the Railways owned by the Dominion contained statements respecting the rights of the Province not in accord with the rights admitted to exist by this Government, and also whether in his opinion the policy of the Act referred to conflicts in any way with the Railway policy of the Dominion. That a reply has been received, that in the opinion of the Minister of Railways and Canals there is nothing in the recitals of the Act to which exception need be taken, and that he does not consider that the policy of the Act in any way contravenes that of the Dominion Government.

On the recommendation of the Minister of Justice the Committee advise that the two Acts referred to be left to their operation.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 10th October, 1882.

To His Excellency the Governor General in Council:

The undersigned begs leave to report that he has had under consideration a petition of the Windsor and Annapolis Railway Company to Your Excellency in Council, praying for the disallowance of the Act of the Legislature of Nova Scotia passed on the 27th February last (Chap. 20), intituled: "An Act for the consolidation of the Nova Scotia Railways," and the petition of the Stockholders, likewise praying for the disallowance of the same, which were referred to him by Your Excellency's Council.

The Act in question was considered on the 24th April last, upon a Report from the undersigned made after communication with the Minister of Railways and Canals,

and an Order in Council was passed allowing the Acts in question to be left to their operation.

The undersigned recommends that no further action be taken in the matter, and that the substance of this Report be communicated to the Windsor and Annapolis Railway Company, and to the Debenture Stockholders of the Company.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Honor the Deputy of His Excellency the Governor General in Council on the 12th October*, 1882.

On a Report dated 10th October, 1882, from the Minister of Justice, stating that he has had under consideration a petition of the Windsor and Annapolis Railway Company to Your Excellency in Council, praying for the disallowance of the Act of the Legislature of Nova Scotia, passed on the 27th of February last, intituled: "An Act for the consolidation of the Nova Scotia Railways," and the petition of the Stockholders, likewise praying for the disallowance of the same;

The Minister further states the Act in question was one of two considered on the 24th April last, upon a Report from the Minister of Justice, made after communication with the Minister of Railways and Canals, and an Order in Council was passed allowing the Acts in question to be left to their operation.

The Minister recommends that no further action be taken in the matter, and that the substance of his report be communicated to the Windsor and Annapolis Railway Company, and to the debenture stockholders of the Company.

The Committee submit the above recommendation for Your Excellency's approval.

JOHN J. McGEE.
Clerk Privy Council.

NOVA SCOTIA, 46TH VICTORIA, 1883.

1ST SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd May, 1883.

To His Excellency the Governor General in Council:

The undersigned has had under consideration a petition of the Nova Scotia Railway Company, asking for the disallowance of two Acts lately passed by the

Legislature of the Province of Nova Scotia, and intituled respectively: "An Act respecting Eastern Extension Railway," and "An Act to authorize the raising of a Provincial Loan and for other purposes." He has also had under consideration a memorial from Messrs. White and Fielding, members of the Government of Nova Scotia, at present in Ottawa on public business, requesting that the said Acts be confirmed.

Having carefully considered the Acts in question, the undersigned is of opinion that they are within the Legislative authority of the Legislature of Nova Scotia.

On inquiry he is informed by the Minister of Railways and Canals that there is no objection to them on grounds touching the general Railway Policy of the Government, and he would, therefore, respectfully recommend that they be left to their operation.

The undersigned further recommends that in case this Report is approved, the Nova Scotia Railway Company and Messrs. White and Fielding be informed of the action taken.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd May,* 1883.

On a Report, dated 22nd May, 1883, from the Minister of Justice, stating that he has had under consideration a petition of the Nova Scotia Railway Company asking for the disallowance of two Acts lately passed by the Legislature of the Province of Nova Scotia and intituled respectively: "An Act respecting the Eastern Extension Railway" and "An Act to authorize the raising of a Provincial Loan and for other purposes."

That he has also had under consideration a memorial from Messrs. White and Fielding, members of the Government of Nova Scotia, at present in Ottawa on public business, requesting that the said Acts be confirmed.

Having carefully considered the Acts in question the Minister is of opinion that they are within the Legislative authority of the Legislature of Nova Scotia, and states that on inquiry he is informed by the Minister of Railways and Canals there is no objection to them on grounds touching the general Railway Policy of the Government, and he, therefore, recommends that they be left to their operation.

The Minister further recommends that in case this Report is approved, the Nova Scotia Railway Company and Messrs. White and Fielding be informed of the action taken.

The Committee concur in the Report of the Minister of Justice and the recommendations therein submitted, and advise that the same be approved.

(Signed) JOHN J. McGEE.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th September, 1883.

To His Excellency the Governor General in Council:

Upon the reference by a Petition from Lieutenant-General Domville upon the subject of an Act passed on the 19th April last by the Legislature of the Province of Nova Scotia, and intituled: "An Act to amend an Act to incorporate the Spring

Hill and Parrsboro' Coal and Railway Company, and the Acts in amendment thereof" and " to provide for winding up the affairs of said Company ; " the undersigned has the honor to report as follows :—

The prayer of the petition is that Your Excellency will be pleased to withhold your assent to the Act in question. As there is nothing in the Act reserving it for Your Excellency's assent, the undersigned assumes that the intention of the Petitioners is to ask for the disallowance of the Act. The undersigned is of opinion that the Petitioners should be asked to state if such is the proper construction to be placed on the Petition.

The undersigned recommends that a copy of the Petition be sent to the Lieutenant-Governor of Nova Scotia for any remarks his Government may think proper to make thereon, and for communication with the Directors of the Company, in order that they may be afforded the opportunity of making such answer thereto as they may desire.

All of which is respectfully submitted.

(Signed) A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 18*th October,* 1883.

On a Report, dated 29th September, 1883, from the Minister of Justice, stating that he has had under consideration a Petition dated 7th September, 1883, from Lieutenant-General Domville, upon the subject of an Act passed on the 10th April last by the Legislature of the Province of Nova Scotia and intituled: "An Act to amend an Act to incorporate the Spring Hill and Parrsboro' Coal and Railway Company and the Acts in amendment thereof, and to provide for winding up the affairs of said Company ; "

The Minister observes that the prayer of the Petition is that Your Excellency will be pleased to withhold Your assent, it is assumed that the intention of the Petitioners is to ask for the disallowance of this Act.

The Minister is of opinion that the Petitioners should be asked to state whether such is the proper construction to be placed on the Petition, and recommends that a copy of the Petition be sent to the Lieutenant-Governor of Nova Scotia for any remarks his Government may think proper to make thereon, and for communication with the Directors of the Company in order that they may be afforded the opportunity of making such answer thereto, as they may desire.

The Committee concur in the above recommendation and they submit the same for Your Excellency's approval.

(Signed) JOHN J. McGEE.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th April, 1884.

To His Excellency the Governor General in Council :

The undersigned begs leave to submit this Report upon the Acts passed by the Legislature of the Province of Nova Scotia in the Session of 1883 :—

Chap. 19. "An Act to authorize the raising of a Provincial Loan and for other purposes."

Chap. 21. "An Act respecting Eastern Extension Railway;"

were by Order in Council of the 23rd May, 1883, left to their operation.

Chap. 85. "An Act to amend an Act to incorporate the Spring Hill and Parrsboro' Coal and Railway Company, and the Acts in amendment thereof, and to provide for winding up the affairs of the Company."

Two Petitions have been received asking for the disallowance of this Act, the first from the late James W. Domville, of Rothsay, Province of New Brunswick, Lieutenant-General, and the second from Mr. Richard Hunt, of Prince County, Summerside, Province of Prince Edward Island.

There has also been correspondence relative to this Act with the Lieutenant-Governor of Nova Scotia.

Lieutenant-General Domville's Petition has been withdrawn by his Executors, and it is unnecessary now to consider Mr. Hunt's Petition in view of the fact that at the present Session of Parliament an Act has been passed, ratifying and confirming the Act of the Nova Scotia Legislature and all acts done and proceedings taken thereunder, and declaring that all powers, trusts and provisions thereby given, conferred and enacted for the winding up of the said Company and for selling and disposing of the Company's property, are as valid and effectual for all purposes therein mentioned, as if the same had been enacted by the Parliament of Canada.

In view of these facts, the undersigned recommends that this Act be left to its operation.

The undersigned further recommends that the remaining Acts of the said Session (a Schedule of the Titles of which is annexed hereto) be left to their operation.

(Signed) A. CAMPBELL,

Minister of Justice.

SCHEDULE.

Cap. 1. An Act to further amend "The County Incorporation Act of 1879."

Cap. 2. An Act to further amend "The County Incorporation Act of 1879."

Cap. 3. An Act to amend the Consolidated Act relating to County Courts.

Cap. 4. An Act to amend the Laws in relation to the Election of Members to serve in the General Assembly.

Cap. 5. An Act to amend Chapter 25, of the Acts of 1875, relating to Election Petitions.

Cap. 6. An Act to regulate the Indemnity and Allowance of Executive Councillors.

Cap. 7. An Act to amend Chapter 9 of the Revised Statutes of "Mines and Minerals."

Cap. 8. An Act to amend Chapter 11 of the Revised Statutes of "Crown Lands."

Cap. 9. An Act respecting the office of Sheriff.

Cap. 10. An Act to amend Chapter 21 of the Revised Statutes of "County Assessments."

Cap. 11. An Act to amend Chapter 84 of the Revised Statutes of the prevention of Frauds on Creditors by secret Bills of sale.

Cap. 12. An Act to amend Chapter 101, of the Revised Statutes "of the Sale of Lands under execution."

Cap. 13. An Act to amend Chapter 114 of the Revised Statutes "of Costs and Fees."

Cap. 14. An Act to further amend the Act to establish a Board of Public Charities and Acts in amendment thereof.

Cap. 15. An Act to amend Chapter 8 of the Acts of 1876, intituled : " An Act to extent to the whole Province the provision of Chapter 34, of the Act of 1875, respecting Lunatics."

Cap. 16. An Act to amend Chapter 17, Acts of 1882, intituled : " An Act in relation to the Education of the Blind."

Cap. 17. An Act to secure better attendance at Public Schools.

Cap. 18. An Act to legalize Jury Lists, and Panels, and Assessment Rolls and Revisors' Lists for the present year.

Cap. 20. An Act respecting Bridges.

Cap. 22. An Act respecting the registration of Co-Partnerships and Business Firms.

Cap. 23. An Act for the protection of Woods against Fires.

Cap. 24. An Act respecting the Incorporation of Joint Stock Companies by Letters Patent.

Cap. 25. An Act to amend an Act to incorporate the Great American and European Short Line Railway Company.

Cap. 26. An Act to amend the Nova Scotia Pharmacy Act of 1876.

Cap. 27. An Act to provide for defraying certain expenses of the Civil Government of this Province.

Cap. 28. An Act to amend Chapter 81 of the Acts of 1864, intituled : " An Act concerning the City of Halifax," and the Acts in amendment thereof.

Cap. 29. An Act to authorize the City of Halifax to effect a Loan for the payment of Debts, the Extension of the Water Service, and for other purposes.

Cap. 30. An Act to enable the City of Halifax to borrow Money to pay the amount due by the Board of Commissioners of Schools.

Cap. 31. An Act to vest a portion of the Grand Parade (so called) in the City of Halifax, and for other purposes.

Cap. 32. An Act to enable the Town Council of Dartmouth to levy an Assessment in aid of Railway Extension.

Cap. 33. An Act to enable the Trustees of School Section No. 1, Victoria Square, County of Annapolis, to borrow Money.

Cap. 34. An Act to enable the Trustees of School Section No. 199, of County of Annapolis, to borrow Money.

Cap. 35. An Act to enable the Municipality of Antigonish to borrow Money.

Cap. 36. An Act to provide for the rebuilding of Argyle Bridge in the Municipality of Argyle.

Cap. 37. An Act to authorize the sale of Common Lands in the Township of Clare.

Cap. 38. An Act to amend Chapter 48 of the Acts of 1877, relating to Electoral Districts in the County of Colchester, and the Acts in amendment thereof.

Cap. 39. An Act to enable the Trustees of Public Property for the County of Cumberland to convey a portion of the Amherst Court House Ground to the Queen.

Cap. 40. An Act to alter and amend an Act to enable the Municipality of Cumberland to assess the Amherst Free District for certain purposes.

Cap. 41. An Act to enable the Municipality of Cumberland to assess Polling District No. 1, in that County, for certain purposes.

Cap. 42. An Act to enable the Municipality of Cumberland to assess Polling District No. 5 for Railway purposes.

Cap. 43. An Act to change the name of a Settlement in the County of Cumberland.

Cap. 44. An Act to further amend the Act to authorize the removal of an Aboiteau across La Blanche River.

Cap. 45. An Act to enable the Trustees of School Section No. 29, Maitland, Hants, to sell land.

Cap. 46. An Act to authorize the Sale of the Presbyterian Church at Nine Mile River, Hants County.

Cap. 47. An Act to amend an Act to add a Polling District in the County of Inverness.

Cap. 48. An Act to change a Polling Place in District No. 7, Broad Cove, Inverness.

Cap. 49. An Act to enable the Trustees of Port Hood School Section No. 10, County of Inverness, to borrow Money.

Cap. 50. An Act to change the name of a Settlement in the County of Inverness.

Cap. 51. An Act to amend the Acts incorporating the Town of New Glasgow.

Cap. 52. An Act further to amend the Act incorporating the Town of Pictou, and the Acts in amendment thereof.

Cap. 53. An Act to amend Chapter 48, of the Acts of 1882, concerning Electoral Districts in the County of Queen's.

Cap. 54. An Act to change the name of a Settlement in the County of Victoria.

Cap. 55. An Act to change the name of a Settlement in the County of Victoria.

Cap. 56. An Act to provide for the Election of a Municipal Councillor for Polling District No. 1, Yarmouth.

Cap. 57. An Act to enable the Street Commissioner of Road District No. 2, in the Town of Yarmouth, to issue Bonds for building Sewers in said District.

Cap. 58. An Act to authorize the appropriation of Funds held by the Bishop of Nova Scotia for the benefit of St. Margaret's Bay.

Cap. 59. An Act to incorporate the Supplementary Fund Committee of the Presbyterian Church in Nova Scotia in connection with the Church of Scotland.

Cap. 60. An Act to amend an Act to incorporate the Congregation of Chalmer's and King's Churches, in the Counties of Antigonish and Guysborough.

Cap. 61. An Act to incorporate the Trustees of the Presbyterian Congregation of Baddeck, Victoria.

Cap. 62. An Act to incorporate the Trustees of Forbes' Church in the County of Inverness.

Cap. 63. An Act to amend the Act to incorporate the Governors of King's College, Windsor.

Cap. 64. An Act to further amend Chapter 64 of the Acts of 1865, intituled: "An Act to incorporate the Acadia Coal Company."

Cap. 65. An Act further to alter and amend Chapter 52, Acts of 1867, relating to the Amherst Boot and Shoe Company, and the Acts in amendment thereof.

Cap. 66. An Act to amend an Act to incorporate the Atlantic Sugar House Company, limited.

Cap. 67. An Act to amend the Act to incorporate the Nova Scotia Barristers' Society.

Cap. 68. An Act to incorporate the Bras-d'Or Steam Navigation Company, limited.

Cap. 69. An Act to extend Chapter 54 of the Acts, of 1880, intituled: "An Act to incorporate the Cape Breton Land and Mineral Company, limited.

Cap. 70. An Act to incorporate the Chebucto Fishing Company, limited.

Cap. 71. An Act to amend the Act to incorporate the Eastern Development Company, limited.

Cap. 72. An Act to incorporate the Eugene Gold Mining Company.

Cap. 73. An Act respecting the claim of Charles C. Gregory.

Cap. 74. An Act to alter and amend the Acts relating to the Halifax Sugar Refining Company, limited.

Cap. 75. An Act to incorporate the International Coal and Transportation Company, limited.

Cap. 76. An Act to incorporate the Joggins Railway Company.

Cap. 77. An Act to incorporate the Laborers' Union.

Cap. 78. An Act to incorporate the Low Point Barrassie and Lingan Mining Company.

Cap. 79. An Act to revive and amend the Act to incorporate the Maritime Draw Cut Mower Company, limited.

Cap. 80. An Act to incorporate the Melvern Milling Company, limited.

Cap. 81. An Act to incorporate the Mulgrave Woollen Company, limited.

Cap. 82. An Act to incorporate the Oak Vale Cemetery Association.
Cap. 83. An Act to incorporate the Trustees of Castle Hill Cemetery, in the County of Pictou.
Cap. 84. An Act to incorporate the River Bank Cemetery, Hantsport.
Cap. 86. An Act to incorporate the Wallace Grey Stone Company, limited.
Cap. 87. An Act to incorporate the Windsor Tanning Company, limited.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th May*, 1884.

The Committee of the Privy Council have had before them a Report, dated 18th April, 1884, from the Minister of Justice, upon the Acts passed by the Legislature of the Province of Nova Scotia in the Session of 1883, in the 46th year of Her Majesty's reign.

On the recommendation of the Minister of Justice the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters 1 to 18, 20, 22 to 87, inclusive, Chapters 19 and 21 having been by Order in Council of 23rd May 1883, left to their operation, and they further advise that the Lieutenant-Governor of Nova Scotia be so informed.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

NOVA SCOTIA, 47TH VICTORIA, 1884.

2ND SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 1st September, 1884.

To His Excellency the Governor General in Council :

The undersigned having had under consideration Chapter 3 of the Acts passed by the Legislature of the Province of Nova Scotia, in the 47th year of Her Majesty's reign, intituled: "An Act respecting a Provincial Loan," respectfully recommends that the Act be left to its operation.

J. H. POPE,
For the Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th September,* 1884.

On a Memorandum, dated 1st September, 1884, from the Acting Minister of Justice stating that he has had under consideration Chapter 3 of the Acts passed by the Legislature of the Province of Nova Scotia in the 47th year of Her Majesty's reign, intituled: "An Act respecting a Provincial Loan," and recommending that the Act be left to its operation;

The Committee concur in the foregoing recommendation and they advise that the Lieutenant-Governor of the Province of Nova Scotia be informed in the same sense.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th March, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon the Acts passed by the Legislature of the Province of Nova Scotia in the year 1884.

The undersigned having considered the Acts mentioned in the Schedule attached hereto, respectfully recommends that they be left to their operation.

Cap. 3. An Act respecting a Provincial Loan; was left to its operation by Order in Council dated 6th September last.

Cap. 9. An Act to impose duties on Licenses issued under the Dominion Liquor License Act, 1883.

The undersigned had occasion to examine this Act a short time after it was passed, and came to the conclusion that it should be left to its operation. He sees no reason to change the view which he then entertained, and recommends that the power of disallowance be not exercised in respect of this Act.

Cap. 19. An Act to amend Chapter 137, Revised Statutes, 3rd Series "of the relief of Insolvent Debtors."

This Act makes provision with respect to the discharge of Insolvent Debtors confined in gaol under the ordinary process of the Courts. Some difference of opinion exists with respect to the authority of the Legislature over this subject. In Ontario, in the revision of their Statutes, the laws on this subject were consolidated, as being within the legislative authority of the Province. In New Brunswick, on the other hand, in the case of Regina *vs.* Chandler (1 Han., 518) it was held that Legislation of this class was *ultra vires* of a Provincial Legislature, and in the consolidation of the Statutes of New Brunswick, 1877, the Acts of that Province relating to the subject were not consolidated, but were printed in an Appendix.

In Nova Scotia the Acts relating to Insolvent Debtors were not included in the Consolidation of 1873, although the Act had been amended by the Legislature of Nova Scotia in 1863.

In view, however of this difference of opinion, and believing that no inconvenience can arise from so doing, the undersigned recommends that the Act be left to its operation.

Cap. 25. An Act to improve the Administration of Justice.

The undersigned recommends that this Act be left to its operation.

At the same time he desires to observe that some of the provisions of Section 3, relating to the qualification of the Judges, the offices they may hold, and their precedence, and the oaths to be taken by them are, in his opinion, not within the

authority of the Legislature, and very considerable doubt exists with respect to others. The same powers, however, have been exercised by other Legislatures, and as the provisions in regard to them form part only of an Act to "improve the Administration of Justice" of general importance, the disallowance of which would probably give rise to much inconvenience, he recommends that the Act be left to its operation.

The undersigned further recommends that if this Report is approved, the Lieutenant-Governor of Nova Scotia be informed that it is the intention of His Excellency to leave to their operation the Acts mentioned in the Schedule hereto, and in this Report.

All of which is respectfully submitted.

(Signed,) A. CAMPBELL.

Minister of Justice.

SCHEDULE.

TITLES OF THE ACTS 47 VICTORIA (1884), NOVA SCOTIA.

Cap. 1. An Act to authorize the Transfer of certain Railways and Property to the Government of Canada.

Cap. 2. An Act to authorize the payment of certain Moneys to Baring Bros. and Company.

Cap. 4. An Act to authorize the payment of Expenditure on certain Bridges.

Cap. 5. An Act to amend Chapter 20, of the Acts of 1883, intituled : "An Act respecting Bridges."

Cap. 6. An Act to further amend the Acts relating to the Nova Scotia, Nictaux and Atlantic Central Railway.

Cap. 7. An Act to amend the Act to incorporate the Great American and European Short Line Railway Company.

Cap. 8. An Act to legalize Jury Lists and Panels and Assessment Rolls and Revisor's Lists for the present year.

Cap. 10. An Act respecting the Union of the Methodist Church of Canada with certain other Methodist Churches.

Cap. 11. An Act to amend the Act to incorporate the Halifax Asylum for the Blind.

Cap. 12. An Act to amend and consolidate the Law relating to the separate Property and the Rights of Property of Married Women.

Cap. 13. An Act to amend the County Incorporation Act, 1879.

Cap. 14. An Act to further amend the County Incorporation Act of 1879.

Cap. 15. An Act in relation to the Education of Deaf or Deaf Mute Persons.

Cap. 16. An Act to amend the Law relating to Barristers and Attorneys.

Cap. 17. An Act to amend Chapter 62 of the Revised Statutes, "of Fire and Fire Wards."

Cap. 17*a*. An Act for the prevention of loss of life by fire, and for the establishment of a system of Fire Escapes.

Cap. 18. An Act to revest in the Crown, and provide for the disposal of certain Lands in this Province.

Cap. 20. An Act to regulate Procedure in cases of summary Convictions and orders by Justices of the Peace.

Cap. 21. An Act to further amend Chapter 10 of the Revised Statutes, "of the Regulation of Mines."

Cap. 22. An Act to amend Chapter 1 of the Revised Statutes of Nova Scotia.

Cap. 23. An Act to amend Chapter 17, of the Acts of 1882, intituled : "An Act for the Education of the Blind."

Cap. 24. An Act to amend Chapter 44 of the Revised Statutes.

Cap. 26. An Act for the Publication of the Consolidated Statutes.

Cap. 27. An Act to provide for defraying certain expenses of the Civil Government of this Province.

Cap. 28. An Act to authorize a Loan for the City of Halifax, and for other purposes.

Cap. 29. An Act to amend Chapter 32, of the Act of 1875, of Public Instruction, so far as regards the City of Halifax.

Cap. 30. An Act to confirm the location of the Railway siding from Richmond to the property of the Nova Scotia Manufacturing Company (Limited).

Cap. 31. An Act to make further provision for the construction and repair of bridges in the County of Halifax.

Cap. 32. An Act to enable the Town of Dartmouth to purchase Land, and for other purposes.

Cap. 33. An Act to enable the Trustees of School Section No. 19, in the District of Annapolis (West), to sell lands.

Cap. 34. An Act to legalize the proceeding of School Section No. 29, Annapolis East.

Cap. 35. An Act to divide Polling Section No. 13, in the County of Annapolis.

Cap. 36. An Act to change the name of Little Tracadie, in the County of Antigonish.

Cap. 37. An Act to further amend the Act to incorporate the Congregations of Chalmer's and King's Churches, in the Counties of Antigonish and Guysborough.

Cap. 38. An Act to amend the Act to incorporate the Trustees of the Free Church Congregations of Catalone, Mire, Cow Bay and Forks, in the County of Cape Breton.

Cap. 39. An Act to amend the County Incorporation Act of 1879, as far as respects the County of Cape Breton.

Cap. 40. An Act to authorize a loan for the Municipality of Colchester.

Cap. 41. An Act to incorporate the Trustees of Union Church Cemetery, West Tatamagouche, in the County of Colchester.

Cap. 42. An Act to enable the Municipality of Cumberland to borrow Money for railway purposes.

Cap. 43. An Act to provide an additional Polling District in the County of Cumberland.

Cap. 44. An Act to authorize the leasing of a portion of Digby Common Land.

Cap. 45. An Act to authorize the Municipality of East Hants to borrow Money.

Cap. 46. An Act to authorize the Municipality of West Hants to borrow Money.

Cap. 47. An Act to enable the Municipality of West Hants to borrow Money for a Poor Farm.

Cap. 48. An Act to authorize the sale of the Presbyterian Manse at Ste. Croix, Hants County.

Cap. 49. An Act to change the name of a Settlement in the County of Inverness.

Cap. 50. An Act to change the name of a Settlement in the County of Inverness.

Cap. 51. An Act to legalize the proceedings of the Annual School Meetings of Section No. 2, South Inverness.

Cap. 52. An Act to alter the boundaries of certain Polling Districts, and the Municipal representation of the County of Inverness.

Cap. 53. An Act to authorize the Town of New Glasgow to borrow Twenty thousand Dollars.

Cap. 54. An Act to authorize the sale of certain School Lands in the Old Township of Onslow.

Cap. 55. An Act to incorporate the Town of Parrsboro'.

Cap. 56. An Act to incorporate the Trustees of St. James' Church, Parrsboro'.

Cap. 57. An Act to change the name of a Settlement in the County of Pictou.

Cap. 58. An Act to authorize a Loan for the Municipality of Pictou County.

Cap. 59. An Act to provide Jury Lists and Panels for the County of Queen's, for the present year, and to legalize the same.

Cap. 60. An Act to amend Chapter 64, Acts of 1853, to incorporate the Trustees of the Free Church Congregation, Sydney.

Cap. 61. An Act to authorize the sale of certain School Lands in the Old Township of Truro.

Cap. 62. An Act to incorporate the Halifax Railway Company.

Cap. 63. An Act to amend Chapter 83, of the Acts of 1879, entitled: An Act to incorporate the Church of England Institute.

Cap. 64. An Act to amend the Act to incorporate the Young Men's Literary Association.

Cap. 65. An Act to incorporate the Halifax Association for Improving the condition of the Poor.

Cap. 66. An Act to incorporate the Baptist Book and Tract Society.

Cap. 67. An Act to amend Chapter 76, of the Acts of 1867, entitled: An Act to amend the Merchants' Marine Insurance Company.

Cap. 68. An Act to incorporate the Woodlawn Cemetery at Annapolis Royal.

Cap. 69. An Act to incorporate the Barrington and Cape Island Steam Ferry Company.

Cap. 70. An Act to incorporate the Cape Breton Railway Extension Company, limited.

Cap. 71. An Act to extend Chapter 61, of the Acts of 1882, intituled: An Act to incorporate the Eastern Development Company, limited.

Cap. 72. An Act to incorporate Fidelity Co-operative Company.

Cap. 73. An Act to incorporate the Hants County Marine Insurance Company.

Cap. 74. An Act to further revive and amend the Act to incorporate the Mire Bay Harbor Company.

Cap. 75. An Act to incorporate the Young Men's Christian Association of New Glasgow.

Cap. 76. An Act to incorporate the Mutual Relief Society of Nova Scotia.

Cap. 77. An Act to incorporate Crystal Wave Lodge, No. 25, Independent Order of Oddfellows.

Cap. 78. An Act to incorporate Lorne Lodge, Independent Order of Oddfellows.

Cap. 79. An Act to amend Chapter 85, Acts of 1877, intituled: An Act to incorporate the Trustees of Scotch Hill Cemetery, in the County of Pictou.

Cap. 80. An Act to amend the Act to incorporate the Round Hill Woodenware Company, limited.

Cap. 81. An Act to revive and amend the Act to incorporate the Sydney Coal Mining Company, and the Acts in amendment thereof.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th April*, 1885.

The Committee of the Privy Council have had before them a Report, dated 26th March, 1885, from the Minister of Justice upon the Acts passed by the Legislature of the Province of Nova Scotia, in the year 1884, in the 47th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapters 1 to 81 inclusive, save and except Chapter 3 which was left to its operation by Order in Council of 6th September, 1884, and they further advise that the Lieutenant-Governor of Nova Scotia be so informed.

(Signed) JOHN J. McGEE.
Clerk Privy Council.

NEW-BRUNSWICK, 31ST VICTORIA, 1867-8.

3RD SESSION—22ND GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th June, 1868.

With reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th instant, on the Memorandum of the undersigned, relative to the course of the pursued with respect to the Acts passed by the Provincial Legislatures the undersigned has the honor to report;

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of New Brunswick, in the first Session thereof, to be free from objections of any kind. He, therefore, recommends that the same be respectively left to their operation.

(Signed) JOHN A. MACDONALD.

SCHEDULE.

Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 17, 18, 19, 21, 22, 23, 24, 27, 28, 29, 30, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 58, 59, 60, 61, 63, 64, 67, 68, 69, 70, 71, 72.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th July*, 1868.

On a Memorandum, dated 26th June, 1868, from the Hon. the Minister of Justice and Attorney-General, reporting, with reference to the Imperial "British North America Act, 1867," and also, to the Order in Council of the 9th June, ultimo, on his Memorandum relative to the course to be pursued with respect to the Acts passed by Provincial Legislatures, that he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of New Brunswick, in the First Session thereof, to be free from objections of any kind.

The Committee advise that the Acts enumerated in the annexed Schedule be left to their operation accordingly.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

SCHEDULE.

Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 17, 18, 19, 21, 22, 23, 24, 27, 28, 29, 30, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 58, 59, 60, 61, 63, 64, 67, 68, 69, 70, 71, 72.

(Signed) WM. H. LEE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 7th September, 1868.

The undersigned has the honor to report that after full consideration he is of opinion that the following Acts, passed by the Legislature of the Province of New Brunswick at its last Session, 31st Victoria, should be left to their operation:

31st Victoria, Chapters 13, 16, 20, 26, 31, 32, 37, 39, 54, 55, 62, 65, 66.

The Acts Chapters 39, 54, 55 will, of course, be subject to Legislation by the Parliament of Canada, relating to navigation.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 12th September*, 1868.

On a Report, dated 7th September, 1868, from the Honorable the Minister of Justice, stating that after full consideration he is of opinion that the following Acts passed by the Legislature of the Province of New Brunswick, at its last Session, 31st Victoria, should be left to their operation :—

31st Victoria, Chapters 13, 16, 20, 26, 31, 32, 37, 39, 54, 55, 62, 65, 66.

He further states that the Acts Chapters 39, 54 and 55, will, of course, be subject to Legislation by the Parliament of Canada relating to navigation.

The Committee advise that the Acts above-mentioned be left to their operation accordingly.

Certified.

(Signed) WM. H. LEE

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th September, 1868.

The undersigned after full consideration has the honor to report that, in his opinion, the following Acts passed by the Legislature of the Province of New Brunswick at its last Session, 31st Victoria, should be left to their operation :—

Chap. 10.—" An Act to authorize the Town of Woodstock to aid further in the construction of the Woodstock Railway, and to authorize the Woodstock Railway Company to give security therefor."

Chap. 57.—" An Act to extend the time for building the Albert Railway."

With respect to the latter Act the undersigned thinks it necessary to call the attention of Your Excellency to the fact that the Albert Railway is one of those to which a subsidy was granted by the 27th Vic , Chap. 3, of New Brunswick.

(*See* Statutes of New Brunswick, 32nd Victoria, Chap. 57, 1869.)

This subsidy is a liability of the Province for which, under the Union Act the Dominion must provide. It is, however, clear that only those liabilities that existed at the time of the Union are to be met by the General Government, and that the obligation to pay the subsidy cannot be extended by the Provincial Legislature by any Legislation since that time.

The attention of the Provincial Government should be called to this, so that they may, should they deem it expedient, submit a measure to the Provincial Legislature granting a subsidy to the Railway if commenced and completed under the Act in question.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 18th September*, 1868.

On a Memorandum, dated, 16th September, 1868, from the Honorable the Minister of Justice, reporting that after full consideration, the following Acts passed by the Legislature of the Province of New Brunswick at its last Session, 31st Victoria, should, in his opinion, be left to their operation:

Chap. 10.—"An Act to authorize the Town of Woodstock to aid further in the construction of the Woodstock Railway, and to authorize the Woodstock Railway Company to give security therefor."

Chap. 57.—"An Act to extend the time for the building of the Albert Railway."

With respect to the latter Act the Minister of Justice thinks it necessary to call the attention of Your Excellency to the fact that the Albert Railway is one of those to which a subsidy was granted by the 27th Vic., Chap. 3, of New Brunswick.

That this subsidy is a liability of that Province, for which, under the Union Act, the Dominion must provide; that it is, however, clear that only those liabilities that existed at the time of the Union are to be met by the General Government, and that the obligation to pay the subsidy cannot be extended by the Provincial Legislature by any Legislation since that time. He submits that the attention of the Provincial Government should be called to this, so that they may, should they deem it expedient, submit a measure to the Provincial Legislature granting a subsidy to the Railway if commenced and completed under the Act in question.

The Committee advise that the two Acts above-mentioned be left to their operation, and that the suggestion of the Minister of Justice with respect to the Act, Chapter 57, be approved and acted on.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th September, 1868.

In reference to the following Acts passed by the Legislature of the Province of New Brunswick at its last Session, 31st Victoria, the undersigned has the honor to report as follows:—

Chap 25. "An Act to exempt the Homesteads of Families from levy or sale on execution."

The 9th Section of this Act is objectionable, inasmuch as it declares that a fraudulent violation of an oath taken by an appraiser shall be a felony, punishable as for wilful and corrupt perjury.

(*The 9th Section of this Act repealed by Statute of New Brunswick, 32nd Victoria, Chap.* 18, 1869.)

This is Legislation respecting the Criminal Law, which appertains solely to the Parliament of the Dominion, and the undersigned recommends that the attention of the Government of New Brunswick be called to the clause, suggesting that it should be repealed next Session, and no action be taken upon it meanwhile.

Chap. 56. "An Act relating to the Central Bank of New Brunswick."

This Act appears to be objectionable, inasmuch as it relates to banking and the issue of paper money, and should have emanated from the General Parliament. The attention of the Provincial Government is invited to this Act.

(*Repealed by Statute of New Brunswick, 32nd Victoria, Chap.* 27, 1869.)

All which, &c.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 18*th September*, 1868.

On a Memorandum, dated 16th September, 1868, from the Honorable the Minister of Justice, having reference to the following Acts, passed by the Legislature of the Province of New Brunswick at its last Session, 31st Victoria, and reporting as follows:—

Cap. 25. "An Act to exempt the Homestead of Families from levy or sale on execution."

"The 9th Section of this Act is objectionable, inasmuch as it declares that a fraudulent violation of an oath, taken by an appraiser, shall be a felony, punishable as for wilful and corrupt perjury."

This is Legislation respecting the Criminal Law, which appertains solely to the Parliament of the Dominion, and the undersigned recommends that the attention of the Government of New Brunswick be called to the clause, suggesting that it should be repealed next Session, and no action taken upon it meanwhile.

Cap. 56. An Act relating to the Central Bank of New Brunswick."

This Act appears to be objectionable, inasmuch as it relates to banking and the issue of paper money, and should have emanated from the General Parliament.

The attention of the Provincial Government is invited to this Act.

The Committee advise that the recommendation of the Minister of Justice be approved and adopted.

Certified.

WM. H. LEE,

Clerk Privy Council.

Memorandum re Reserved Bill.

On the Despatch of the Lieutenant-Governor of New Brunswick, 1st of April, 1868, transmitting an Act relating to presentation to Parishes in the City and County of St. John, and County of Westmoreland, in the Province of New Brunswick, which had been reserved for the assent of the Governor General, the Minister of Justice reported on the 19th of July, 1869, as follows:

"This Act having been largely petitioned against by the Clergy and Laity of the Church of England in New Brunswick, it has been thought advisable to allow the year to expire within which a reserved Bill must be assented to, if assented to at all. That year has expired and the Acts falls to the ground. The Legislature

of New Brunswick has since passed a General Act relating to presentations to Rectories, 32 Vic., Chap. 6, 1869."

The Despatch containing the reserved Act in question, together with all the Petitions against it, should be returned to the Secretary of State for the Provinces, to be put on file there.

(Signed) JOHN A. MACDONALD.

Mr. Under Secretary Meredith to Lieutenant-Governor New Brunswick.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES,

OTTAWA, 22nd September, 1868.

SIR,—I have the honor to transmit, herewith, a Copy of an Order of His Excel-
18th September, 1868. lency in Council, in reference to certain Acts passed by the Legislature of the Province of New Brunswick, during its last Session, which contains certain objectionable clauses.

May I request that you will have the goodness to call the attention of your Government to the accompanying Order in Council.

I have, &c.,

(Signed) E. A. MEREDITH,
Under Secretary.

To the Lieutenant-Governor, Fredericton.

Lieutenant-Governor New Brunswick to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, N. B., 30th September, 1868.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 22nd instant, enclosing an Order of His Excellency the Governor General in Council, in reference to two Acts passed by the Legislature of this Province, viz.:—"An Act to exempt the Homestead from levy or sale on execution," and "An Act relating to the Central Bank of New Brunswick."

I will immediately call the attention of my Executive Council to the recommendation of the Minister of Justice, as approved by that Order in Council.

I have, &c.,

(Signed) L. A. WILMOT,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces, Ottawa.

NEW BRUNSWICK, 32ND VICTORIA, 1869.

4TH SESSION—22ND GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 12th August, 1869.

With reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th of June, 1868, on the Memorandum of the undersigned, relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report;

That he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the Province of New Brunswick in the fourth Session of the twenty-second General Assembly thereof (being the second Session since the passing of the British North America Act 1867) to be free from objection of any kind. He, therefore recommends that the same be left to their operation.

(Signed) JOHN A. MACDONALD.

SCHEDULE.

Chapters 1, 2, 4, 5, 7, 8, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42,43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 84, 85, 87, 88, 89, 90, 91.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 17*th August*, 1869.

The Committee have had under consideration a Memorandum, dated 12th August, 1869, from the Hon. the Minister of Justice, having reference to the Imperial British North America Act, 1867, and to the Order in Council of the 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures.

The Minister of Justice reports that he considers the Acts mentioned in the annexed Schedule passed by the Legislature of the Province of New Brunswick in the fourth Session of the 22nd General Assembly thereof (being the second Session since the passing of the British North America Act, 1867,) to be free from objection of any kind. He, therefore, recommends that the same be respectively left to their operation.

The Committee advise that the Acts mentioned in the said annexed Schedule be respectively left to their operation accordingly.

Certified.

(Signed) W. H. LEE.

Clerk Privy Council.

SCHEDULE.

Chapters, Nos. 1, 2, 4, 5, 7, 8, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 84, 85, 87, 88, 89, 90, 91.

(Signed) JOHN A. MACDONALD.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th August, 1869.

The undersigned, to whom was referred the Bill reserved by the Lieutenant-Governor of New Brunswick, on the 21st of of April 1869, intituled :

"A Bill relating to the appointment of Justices of the Peace in the several Counties of this Province," Chap. 92, of Acts of 1870, begs leave to report :

That he has carefully considered the provisions of the said Bill, and that he is of opinion that it is within the jurisdiction of the Legislature of New Brunswick, and that it is unobjectionable. He, therefore, recommends that Your Excellency do give your assent thereto.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

Proclamation giving assent to the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Friday, 20th day of August, 1869.

PRESENT :

His Excellency the Governor General.

The Hon. Sir John A. Macdonald, K.C.B. — The Hon. Mr. Rose,
" Mr. McDougall, C.B. — " Mr. Howe.
" Mr. Chapais.

IN COUNCIL :

Whereas, by an Act passed in the 31st year of Her Majesty's reign, intituled : "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for purposes connected therewith," it is amongst other things enacted, that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislatures or by Proclamation that it has received the assent of the Governor General in Council ; and, whereas, on the 21st day of April, 1869, the Lieutenant-Governor of the Province of New Brunswick, reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled : "A Bill relating to the appointment of Justices of the Peace in the several Counties in this Province," for the signification of the Governor General's pleasure thereon ;

And, whereas, the said Bill so reserved as aforesaid, has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General ;

Now, therefore, the Governor General in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present Order, by and with the advice of his Privy Council, declare his assent to the said Bill.

And the Secretary of State for the Provinces is to give the necessary directions herein accordingly.

(Signed) WM. H. LEE,
Clerk Privy Council.

Petition of certain Inhabitants of the City of St. John.

To His Excellency the Right Hon. Sir John Young, Baronet, K.C.B., K.C.M.G., &c., &c., Governor General of the Dominion of Canada, &c., &c.

The petition of the undersigned humbly sheweth:

That the European and North American Railway, for extension from St. John westward, was incorporated by Act of the General Assembly of the Province of New Brunswick, in the year 1864.

That the requirement of the Act incorporating the said Company not having been violated, your petitioners claim that they were released and discharged from all liability, and, in consequence, refused to pay the assessments made, from time to time, upon the stock of the said Company.

That the Directors of the said Company being advised that the payment of the said subscriptions could not be enforced by process of law, made application to the Local Legislature of this Province, at its last Session, for an Act to legalize their proceedings, and enable them to enforce payment of such subscriptions.

That a rule of both Houses of the Legislature requires that Notices of Bills intended to be brought before the House, should be first published, a copy of which rule is hereto attached, marked "A."

That the 26th Rule of the House, published in the *Royal Gazette* of this Province, states that no Bill of a private nature shall be received by the House after the fourteenth day from the opening of the Session, both inclusive.

That the House met on the 4th March last, and, in defiance and contradiction of this rule, the Act before referred to, and hereto annexed, was introduced on the 30th March last.

That the said Act was, in its nature, both local and private, and was in amendment of a former Act.

That no notice of any description was ever published, as required by the said rule of the said Legislature, and the first intimation your petitioners had of the existence of the said Act, was a telegraphic despatch in the St. John Evening *Globe*, of the 19th April, inst., stating that "a Bill to compel subscribers to stock in the European and North American Railway to pay up" had passed both branches of the Legislature.

That your petitioners believe that the application for such Bill was never sanctioned at any meeting of the stockholders of the said Company, nor was there any meeting of stockholders called to consider the subject.

That the said Bill was introduced in the House of Assembly by Mr. Needham, Member for York County, on the 30th March, inst., and then read; that the second reading was on the following day; and on the 1st April, inst., it was referred to a Committee composed of Mr. Needham, Mr. Hibbard, Member for Charlotte, and Mr. Flewelling, Member for King's County.

That the said Bill passed both Houses of the Legislature on the 17th of April instant.

That your petitioners have procured from the Clerk of the House of Assembly, a copy of the said Bill, which is hereunto annexed, and to which your petitioners beg to refer Your Excellency.

Your petitioners believe that if the said Bill become law, a most dangerous precedent of *ex post facto* Legislation will be established, and your petitioners will be deprived of their rights without a hearing.

That if your petitioners had received any notice of the said Bill, or been aware that the same was before the House of Assembly, they would have opposed it most strenuously.

Your petitioners therefore humbly pray that Your Excellency will disallow the said Bill, which your petitioners regard as unconstitutional and unjust, and as an invasion of private rights, and as an attempt on the part of the said Directors of the said Company to deprive them of their legal rights.

And your petitioners, as in duty bound, will ever pray.

(Signed)	Z. Ring, J.P.,	(Signed)	Geo. Carville, J.P.,
"	Wm. Thomson, J.P.,	"	John Walker,
"	Alex. Barnhill, J.P.,	"	William Firth,
"	John McLachlan, J.P.,	"	Thomas Furlong,
"	Hall & Fairweather,	"	D. V. Roberts,
"	R C. Adams,	"	Troop & Son,
"	Wm. Davidson,	"	George McLeod.

Petition of Millowners, &c., on West Musquash River.

To His Excellency the Right Honorable Sir John Young, Baronet, G.C.B., G.C.M.G. &c., &c., &c., Governor General of the Dominion of Canada.

The Petition of certain millowners and owners and lessees, and licensees of land on the West Musquash River, in the Parish of Lancaster, in the City and County of Saint John, and Province of New Brunswick,

Humbly sheweth:

That by the first section of an Act passed at the last Session of the Legislature of New Brunswick, intituled: "An Act to incorporate the Musquash River Stream Driving Company," one Charles F. Clinch, and one Samuel R. Clinch, were created a corporation "for the purpose of clearing out and building dams on the West Musquash River, from the mill at the head of tide-water, in the Parish of Lancaster, on the said river, to the headwaters of the same, including all its branches, to facilitate the driving of logs and timber thereon."

That by the second section of said Act, the said Charles F. Clinch and Samuel R. Clinch "have powers to enter in and occupy for that purpose, any lands bordering on said river, its lakes or any of its branches within the limits before defined, as shall be necessary for constructing sluices, building dams and making other improvements which may be required to facilitate the driving of logs and timber thereon, doing no unnecessary damage thereto; and the said Charles F. Clinch and Samuel R. Clinch shall be liable for all damages sustained by the taking of any land necessary to be taken and used for the purposes of the said Act, or for any damage arising from the operations under the said Act."

That by the third section of the said Act, the said Charles F. Clinch and Samuel R. Clinch, are "authorized to demand and receive tolls of and from all persons, owners of logs, timber and other lumber passing along said river, as follows: For every thousand superficial feet of logs, timber and other lumber passing through the dam, to be built at Log Falls, twenty-five cents; for every thousand feet of logs, timber and other lumber passing through the dam, and other improvements at and on the outlet

of Sherwood Lake, fifty cents ; for every thousand superficial feet of logs, timber and other lumber passing through the dam, to be built on Queen's Lake stream near its outlet, at the head of Sherwood Lake, seventy-five cents, and proportionate rates for every other dam that may be built by the said Charles F. Clinch and Samuel R. Clinch, and deemed absolutely necessary for the purpose of driving logs on the said river or any of its branches."

That by the fourth section of the said Act, the said Charles F. Clinch and Samuel R. Clinch "shall have a lien on all logs and timber passing through such portion of the river as may be improved under the provisions of the said Act, for the payment of all tolls assessed ; and in case of refusal or neglect to pay, so much of said logs or timber of each owner thereof so neglecting or refusing, as may be necessary to meet such assessment with the expenses, may be sold by the said Charles F. Clinch and Samuel R. Clinch, to pay the same, after having given ten days' notice thereof, and the surplus, if any, to be returned to the party."

That by the fifth section of the said Act it is provided that, "in case the said Charles F. Clinch and Samuel R. Clinch, shall fail to expend within one year from the passing of the said Act for the purpose of improving the said river or its branches, a sum not less than three thousand dollars, then the said Act to become null and void."

That by a joint rule of both branches of the Legislature, adopted at the Session of 1864, it is provided : "That no Bill of a private or local nature, or Bill for making amendments of a like nature to any former Act, shall be received by the House, unless a notice specifying the several objects desired to be obtained has been published four successive weeks previous to the meeting of the Legislature, or to the introduction of the Bill, in some one of the newspapers published in the city or county interested in the measure, or in the locality where the parties affected reside, and when no newspaper is published in either of the said localities, then in some newspaper published in the nearest adjoining county, or in the *Royal Gazette*," as may be seen by reference to a copy of the *Royal Gazette* of New Brunswick.

That the said Bill was introduced into the House of Assembly of the Province of New Brunswick, on the 27th day of March last, when the rule prepared by the said Joint Committee requiring Bills of a private or local nature to be published in some newspaper was suspended, for the purpose of the said Bill, as may be seen by reference to the Journals of the House of Assembly, page 82.

That your Petitioners being millowners or lessees or licensees of land on the West Musquash River, in the said Parish of Lancaster, are seriously affected by the said Act, yet they were wholly ignorant of any intention to introduce the same, or of the nature of it, the necessary publication never having been made, and were therefore prevented from petitioning against the passage of the said Bill.

That your Petitioners object to the provisions of the said Act, because that it gives to the Messrs. Clinch, an entire monopoly of the lumbering upon the said river, and renders the mill property and timber lands of your Petitioners quite valueless.

That the tolls fixed in and by the said Act are ruinously high.

That logs are now, and have long been driven from the Sherwood Lake to the head of tidewater, for the sum of twenty-five cents per thousand superficial feet, while by the Act in question the Messrs. Clinch are empowered to exact a toll of twenty-five cents per thousand feet on all lumber passing Log Falls, situate between Sherwood Lake and the head of tide water, and a further toll of fifty cents per thousand feet on all lumber passing through the dam at the Sherwood Lake, making in all seventy-five cents per thousand feet, thereby increasing the cost of driving logs from Sherwood Lake fourfold, or in other words, from twenty-five cents to one dollar per thousand feet.

That the tolls on logs driven from Queen's Lake to the head of tidewater will, under the Act, amount to one dollar and fifty cents, an amount, in itself, double the cost of driving logs at the present time from Queen's Lake to tidewater.

That, in addition to the above rates of toll, the Messrs. Clinch are authorized to charge proportionate rates for every other dam that may be built by them.

That the river below Sherwood Lake has been driven for more than forty years and the Sherwood Lake has been driven from for twenty years.

That Justus E. Knight, one of your Petitioners, has driven down the said river from two to three millions feet of lumber annually for the past nine years.

That while the Messrs. Clinch are required to expend, in improvements, the sum of three thousand dollars, the receipts from tolls under said Act will be enormous.

That, within two years, four millions feet of lumber can come into the said river below Sherwood Lake which, at twenty-five cents per thousand feet, will yield one thousand dollars.

That within the same period eight million feet of lumber can come into the said river from Sherwood Lake which, at fifty cents toll at Sherwood Lake and twenty five cents tolls at Log Falls, will yield six thousand dollars.

That the country above Sherwood Lake is an extensive country, capable of yielding, during the time that the proposed improvements must last, say ten years, from twenty to thirty millions feet of lumber, which, basing the calculation upon the lowest estimate, would yield thirty thousand dollars, and this amount is liable to be largely increased by the tolls in respect of such other dams as the Messrs. Clinch may deem it necessary to build.

That the said Act, besides authorizing the imposition of extravagant and ruinous tolls, does not provide proper safeguards for the efficient maintenance, by the Messrs. Clinch, of the dams which they are empowered to make, while it gives them full powers over the land and milling rights of your Petitioners.

That Justus E. Knight, one of your Petitioners has just erected a large mill on the river below the head of tidewater, with the expectation of getting a supply of lumber out of the said river upon fair and equal terms with others, which mill will be rendered almost wholly, if not entirely, valueless if the said Act be not disallowed.

That the rest of your Petitioners are either interested in mills on the east and west branches of the Musquash River, dependent for their supply of lumber upon the said Musquash, West Branch, in whole, or in part, as owners, lessees or licensees of lands on the said West Musquash, whose rights must be largely derogated from, if the said Act be not disallowed.

Your Petitioners, therefore, humbly pray that Your Excellency will be pleased to disallow the said Act of the Legislature of the Province of New Brunswick, intituled: "An Act to incorporate the Musquash River Stream Driving Company."

And, as in duty bound, will ever pray, &c.

(Signed) JUSTUS E. KNIGHT,
" JAMES DONNOLLY,
" ROBERT DONNOLLY,
" FRANCIS WOODS,
" ADAM WOODS,
" JOHN ARMSTRONG.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th November, 1869.

The undersigned has the honor to report that after full consideration, he is of opinion that the following Acts passed by the Legislature of the Province of New Brunswick in the fourth Session of the twenty-second General Assembly thereof (being the second Session since the passing of the British North America Act, 1867,) should, in addition to those mentioned in his Report of the 12th August last, be left to their operation, viz:—

Chapter 6, intituled: "An Act relating to presentations to Rectories of the Church of England in the Province of New Brunswick."

Chapter 9. "An Act relating to Lunacy."

Chapter 11, intituled: "An Act to repeal Sec. 29 of Part 1, Title 4, Cap. 40, of the Revised Statutes of the Post Office."

Chapter 15, intituled: "An Act to repeal Cap. 39, Title 3, of the Revised Statutes, intituled: 'of Desertion from Her Majesty's Forces.'"

Chapter 34. "An Act to alter and amend the Act 18th Vic., Cap. 24, intituled: 'An Act relating to Jurors.'"

Chapter 54, intituled: "An Act to amend an Act intituled: 'An Act to incorporate the European and North American Railway Company, for extension from St. John, westward.'"

Chapter 69, intituled: "An Act to amend the Law relating to the weight of Oaths."

Chapter 80, intituled: "An Act to protect Butter and Cheese Manufacturers."

Chapter 86, intituled: "An Act to incorporate the Musquash River Stream Driving Company."

Chapter 3, intituled: "An Act in amendment of the Act of Assembly, 24 Vic., Cap. 30, relating to the Police Force in the City of St. John."

The undersigned, whilst recommending that the last mentioned Act be left to its operation, it being a beneficial one, would, at the same time, desire to call the attention of the Government of New Brunswick to its terms, in order that they may consider whether it may not be held by the Courts to be a measure affecting criminal procedure, in which case it would be beyond the jurisdiction of the Provincial Legislature by the terms of the "British North America Act, 1867," Section 91, paragraph 27.

He would also beg leave to point out that there seems to be a necessity for an amendment of the Act in so far as the words "guilty under" are concerned; as it stands, a party is declared guilty without charge, trial or hearing. If the words are to be construed as "guilty after conviction" the provision would seem to be nugatory.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November,* 1869.

The Committee of Council have had before them the annexed Memorandum, dated 4th November, 1869, from the Hon. the Minister of Justice, reporting that after full consideration he is of opinion that the several Acts mentioned in the said Memorandum, being Acts passed by the Legislature of the Province of New Brunswick, in the fourth Session of the twenty-second General Assembly thereof (being the second Session since the passing of the "British North America Act, 1867,") should, in addition to those mentioned in his Report on the 12th August last, be left to their operation.

The Committee advise that the Acts mentioned in the said annexed Memorandum be left to their operation accordingly.

They further advise that the attention of the Government of New Brunswick be called to the suggestion of the Minister of Justice with respect to the Act Cap. 3, mentioned in the said Memorandum.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th November, 1869.

The undersigned has the honor to report to Your Excellency that a Bill relating to Marriage Licenses (Chap. 93 of Acts of 1870), was passed by the Legislative Council and Assembly of the Province of New Brunswick during its last Session, and reserved by the Lieutenant-Governor for Your Excellency's assent. The Act is as follows:

"Be it enacted by the Lieutenant-Governor, Legislative Council and Assembly, as follows:—

"1. That all marriage licenses issued and signed by any Lieutenant-Governor or Administrator of the Government of this Province since the first day of May, one thousand eight hundred and fifty-four, by virtue of his Office, and all marriage licenses signed by any Deputy Governor since the first day of July, one thousand eight hundred and sixty-seven, shall be deemed as valid and effectual as though he had been specially authorized by Act of the Legislature of this Province to sign the same.

"2. That from and after the passing of this Act, all marriage licenses shall be issued from the office of the Provincial Secretary, under the hand and seal of the Lieutenant-Governor, or of the person administering the Government of this Province for the time being."

This Bill raises the question which has been already mooted in the other Provinces of the Dominion, as to where the authority to issue marriage licenses since the British North America Act, 1867, came into force, rests. Up to that time the power was vested in the Governors of the several Provinces, as ordinary.

(*See Stokes on Colonies, pages* 149 *and* 184.)

Express power to issue marriage licenses seems to have been given in every Commission of every Governor General of Canada, or in the Instructions accompanying such Commission.

In the Instructions addressed to the Hon. James Murray, as Captain General and Governor in Chief of the Province of Quebec, dated 7th December, 1763 (the first Governor after the conquest), it is provided, in the 27th paragraph, as follows:

"And, to the end that the exclusive jurisdiction of the Lord Bishop of London may take place in our Province, under your Government, as far as conveniently may be, we do think fit that you do give all countenance and encouragement to the exercise of the same, excepting only the collating to beneficies granting licenses for marriage and probate of wills, which we have reserved to our Governor and our Commander in Chief of our said Province for the time being."

All subsequent Commissions or Instructions seem to contain the same power.

By the Marriage Act in Upper Canada, Con. Stat. of U. C., Cap. 72, it is enacted that no Clergyman shall celebrate marriage unless duly authorized so to do by license under the hand and seal of the Governor, or by the publication of banns.

In Lower Canada no express power was given to the Governor by Statute, but in the Act relating to the registration of marriages, Con. Stat. Lower Canada, Cap. 20, it is provided that "in the entry of a marriage in the registry, it shall, among other things, be specified whether the parties were married after the publication of banns, or by dispensation or license.

In the Revised Statutes of Nova Scotia, Cap. 120, it is provided that "no person shall officiate in the solemnization of marriage unless on public notice or on license, and that the Governor may, from time to time, sign and seal marriage licenses and deposit the same with the Provincial Secretary, &c."

In the Revised Statutes of New Brunswick, Cap. 106, it is provided, that "Christian Ministers may solemnize marriage by license or by publication of banns, and the Governor in Council may appoint persons in every county to issue marriage licenses."

The undersigned is of opinion that none of these Statutes can be held as conferring any new power upon the Governors; but that marriage licenses were issued by

them by virtue of their commissions and as ordinary, having jurisdiction as such directly for the Crown.

By the British North America Act, 1867, exclusive powers of Legislation as to "Marriage and Divorce" is given to the Parliament of the Dominion by Sec. 91 Paragraph 26; and by Sec. 92, Paragraph 12, the Legislatures of the Provinces have exclusive powers of Legislation respection the "solemnization of marriage."

The Commission of Lord Monck, the first Governor General of the Dominion, in its 7th paragraph, empowers him to exercise all such power as the Queen may be entitled to exercise within the Dominion, in respect of granting licenses for marriages, &c., and the same power is contained in the Commission to Your Excellency.

Two questions now arise, viz:

1. Whether the authority to issue marriage licenses is vested in Your Excellency as Governor General, under Her Majesty's Commission, or in the Lieutenant-Governors of the several Provinces.

2. Whether the power of Legislation respecting the publication of banns, or the issue of licenses, rests with the General or Local Legislatures.

As to the first point the undersigned is of opinion that the power rests with the Governor General, under his Commission, and not with the Lieutenant-Governors. They do not hold their appointment directly from the Queen, but are appointed by the Governor General in Council pursuant to the 58th Section of the Act. Their powers are simply those conferred upon them by the Statute, and they have no right to deal with matters of prerogative as Representatives of the Sovereign.

The second question as to where the power of Legislation on the subject rests, has excited much interest in Canada, and conflicting opinions exist with respect to it.

The power given to the Local Legislature to legislate on the solemnization of marriage was, it is understood, inserted in the Act at the instance of the representatives of Lower Canada, who, as Roman Catholics, desired to guard against the passage of an Act legalizing civil marriages without the intervention of a clergyman, and the performance of the religious rite. They therefore desired that the Legislature of each Province should deal with this portion of the law of marriage. The Act must, however, of course, be construed according to its terms, and not according to the assumed intention of its framers.

The undersigned is of opinion that the right to legislate respecting the authority to marry, whether by publication of banns, by license or by episcopal dispensation, is part of the general law of marriage, respecting which the Parliament of Canada has exclusive jurisdiction.

The publication of banns or the license (as the case may be) is no part of the solemnization, it is merely the authority to solemnize. The solemnization is not commenced by the issue of the license or the publication of the banns; all the English Marriage Acts treat the authority, and the solemnization under the authority, as quite different matters. Thus, it is provided in the 4th Geo. IV, Chap. 76, Sections 9 and 19, that, "whenever a marriage shall not be had within three months after the publication of banns, or the granting of license, no minister shall *proceed* to the solemnization of such marriage until a new license shall have been obtained, or a new publication of banns had," and by the 21st Section, the solemnization of marriage, without due publication of banns or license of marriage, is made a felony.

In order to convict a person under this clause, it must be alleged and proved that the solemnization was not only commenced but completed; and if the license or banns were a necessary portion of the solemnization, the offence would never be completed without them. The subsequent Marriage Acts seem to draw the same distinction between the authority and the solemnization.

The undersigned is, therefore, of opinion that this reserved Act is beyond the jurisdiction of the Local Legislature, and should not receive the assent of Your Excellency.

As the subject is one of the very greatest importance, affecting the validity of marriages past and future, the undersigned would suggest that the Colonial Minister

be requested to submit the two questions above raised, to the Law Officers of the Crown for their opinion.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 30*th November*, 1869.

The Committee have given their attentive consideration to the annexed Memorandum (dated 29th November, 1869), from the Hon. the Minister of Justice, relative to a Bill passed by the Legislative Council and Assembly of the Province of New Brunswick during its last Session, providing for the issue of marriage licenses by the Lieutenant-Governor of that Province; which Bill was reserved by the Lieutenant-Governor for Your Excellency's assent; and they respectfully report their concurrence in the opinion expressed in the said Memorandum and submit the same for Your Excellency's approval.

Certified. W. A. HIMSWORTH.
Clerk Privy Council.

Sir John Young to Earl Granville.

OTTAWA, 2nd December, 1869.

MY LORD,—I have the honor to forward herewith a copy of an approved Minute of Council, founded on a Report of the Minister of Justice, on a Bill passed by the Legislature of the Province of New Brunswick, providing for the issue of Marriage Licenses by the Lieutenant-Governor of that Province, and reserved by him for my assent.

2. Your Lordship will perceive that the Minister of Justice is of opinion that the Act is beyond the jurisdiction of the Local Legislature, but that the subject is one of such importance, that he requests that it may be submitted to the Law Officers of the Crown for their opinion.

I have, &c.,

(Signed) JOHN YOUNG.

The Earl Granville,
&c., &c., &c.

Sir John Young to Earl Granville.

OTTAWA, 5th December, 1869.

MY LORD,—I would beg to draw your attention to my Despatch, No. 141, of date 2nd December, with reference to a Bill passed by the Legislature of New Brunswick providing for the issue of marriage licenses.

2. Since writing that Despatch, I have received the following memorandum from Sir John Macdonald, the Minister of Justice and Premier, pointing out the importance of an early decision on the question.

He writes, "until the question is settled where the power of Legislation exists, considerable disquiet will remain in the public mind. It is understood that the Court of Chancery in Ontario are prepared to give judgment in a suit before them, which

will have the effect of invalidating a good many marriages. The Court has hitherto refrained from giving the judgment, in order to give an opportunity for Legislation."

Will you kindly press upon the Colonial Minister the importance of an early answer.

I have, &c.,

(Signed) JOHN YOUNG.

The Earl Granville,
&c., &c., &c.

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET, 15th January, 1870.

SIR,—With reference to your Despatch, No. 141, of the 2nd December, I have to inform you that the Despatch and the Report of the Committee of the Hon. the Privy Council, together with the Memorandum from the Hon. the Minister of Justice, relative to a Bill passed by the Legislative Council and Assembly of the Province of New Brunswick, providing for the issue of Marriage Licenses by the Lieutenant-Governor of that Province, were, according to your request, submitted by me to the Law Officers of the Crown for their opinion upon the two questions raised by Sir John Macdonald in his Memorandum.

The Law Officers are disposed to concur with the Minister in his view of the first question stated by him, but they are unable to concur in his opinion that the authority to grant marriage licenses is now vested in the Governor General of Canada, and that the power of legislating on the subject of marriage licenses is solely in the Parliament of the Dominion.

It appears to them that the power of legislating upon this subject is conferred on the Provincial Legislatures by 30 and 31 Vic., Chap. 3, Sec. 92, under the words " the solemnization of marriage in the Province ; " the phrase " the laws respecting the solemnization of marriages in England " occurs in the preamble of the Marriage Act (4th Geo. IV, C. 76), an Act which is very largely concerned with matters relating to banns and licenses, and this is, therefore, a strong authority to show that the same words used in the British North America Act, 1867, were intended to have the same meaning ; " Marriage and Divorce," which, by the 91st Section of the same Act, are reserved to the Parliament of the Dominion, signify, in their opinion, all matters relating to the *status* of marriage between what persons and under what circumstances it shall be created and (if at all) destroyed. There are many reasons of convenience and sense why one law as to the status of marriage should exist throughout the Dominion, which have no application as regards the uniformity of the procedure, whereby that *status* is created or evidenced.

Convenience, indeed, and reasons would seem alike in favor of a difference of procedure, being allowable in Provinces differing so widely in external and internal circumstances, as those of which the Dominion is composed, and of permitting the Provinces to settle their own procedure for themselves, and they are of opinion that this permission has been granted to the Provinces by the Imperial Parliament, and that the New Brunswick Legislature was competent to pass the Bill in question.

I have, &c.,

(Signed) GRANVILLE.

Governor General
The Right Honorable Sir JOHN YOUNG, G.C.B.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th April, 1870.

With reference to the Act passed by the Legislature of the Province of New Brunswick, in the Fourth Session of the General Assembly thereof (being the Second Session since the passing of the "British North America Act, 1867,") entitled: "An Act relating to Marriage Licenses," and which Act was reserved by the Lieutenant-Governor for Your Excellency's assent, the undersigned has the honor to report:

That the Act was submitted by the Secretary of State for the Colonies for the opinion of the Law Officers of the Crown in England, and they report that the same is within the jurisdiction of the Legislature of the Province of New Brunswick. He therefore begs leave to recommend that Your Excellency give your assent thereto.

All which, &c.

(Signed) JOHN A. MACDONALD.

Proclamation giving assent to the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 12th day of April, 1870.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

WHEREAS, by an Act passed in the 31st year of Her Majesty's reign entitled: "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof; and for purposes connected therewith," it is amongst other things enacted that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies, by Speech or Message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor General in Council;

AND WHEREAS, on the 21st day of April, 1869, the Lieutenant-Governor of the Province of New Brunswick reserved a certain Bill passed by the Legislative Council and Assembly of the said, Province entitled: "A Bill relating to Marriage Licenses" for the signification of the Governor General's pleasure thereon;

AND WHEREAS, the said Bill so reserved as aforesaid has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General;

NOW THEREFORE, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by these presents order, by and with the advice of His Privy Council, and declare His assent to the said Bill.

And the Secretary of State for the Provinces is to give the necessary directions herein accordingly.

WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th April, 1870.

With reference to the Act passed by the Legislature of the Province of New Brunswick in the Fourth Session of the Twenty-second General Assembly thereof, (being the Second Session since the passing of the British North America Act, 1867), entitled:

"An Act in addition to and in amendment of Chap. 60, Title VIII of the Revised "Statutes, 'Of Harbors.'"

And which Act was reserved by the Lieutenant-Governor of the Province for the assent of His Excellency the Governor General, the undersigned has the honor to report:

That in his opinion the Act in question is beyond the jurisdiction of the Local Legislature. He therefore begs leave to recommend that Your Excellency do not give your assent thereto.

All which, &c.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th April,* 1870.

The Committee of Council have had under consideration a Memorandum, dated 5th April inst., from the Hon. the Minister of Justice, having reference to the Act passed by the Legislature of the Province of New Brunswick in the Fourth Session of the Twenty-second General Assembly (being the Second Session since the passing of the British North America Act, 1867), entitled: "An Act in addition to and in amendment of Chapter 60, Title VIII, of the Revised Statutes 'Of Harbors'" which Act was reserved by the Lieutenant-Governor for Your Excellency's assent.

The Minister of Justice reports that, in his opinion, the Act in question is beyond the jurisdiction of the Local Legislature, and therefore recommends that Your Excellency do not give your assent thereto.

The Committee concur in the above Report, and recommend that the Act be not assented to.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

NEW BRUNSWICK, 33RD VICTORIA, 1870.

5TH SESSION—22ND GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th October, 1870.

With reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on the Memorandum of the undersigned relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures, the undersigned has the honor to report:

That in his opinion all the Acts passed by the Legislature of the Province of New Brunswick in the last Session, being the Fifth Session of the Twenty-second General Assembly (with the exception of Chapter 35), are free from objection of any kind. He therefore recommends that the same be left to their operation.

That with reference to Chapter 35, entitled:

"An Act to divide the Parish of St. Stephen, in the County of Charlotte, and to erect a separate District for Ecclesiastical purposes," there are two Petitions before His Excellency praying that the Act be disallowed, after consideration of which a further Report will be made.

All which, &c.

(Signed) JOHN A. MACDONALD.

NOTE.—The Act above mentioned, Chapter 35, has been allowed to go into operation by efflux of time.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th October,* 1870.

On a Memorandum dated 20th October, 1870, from the Honorable the Minister of Justice, reporting with reference to the Imperial British North America Act, 1867, and also to the Order in Council of the 9th June, 1868, on his Memorandum relative to the course to be pursued with respect to the Acts passed by the Provincial Legislatures.

That in his opinion all the Acts passed by the Legislature of the Province of New Brunswick in the last Session, being the Fifth Session of the Twenty-second General Assembly, with the exception of Chapter 35 (33rd Victoria), are free from objection of any kind. He therefore recommends that the same be left to their operation.

That with reference to Chapter 35, intituled: "An Act to divide the Parish of St. Stephen, in the County of Charlotte, and to erect a separate District for Ecclesi-

astical purposes," there are two Petitions before Your Excellency praying that the Act may be disallowed, after consideration of which a further Report will be made.

The Committee advise that the Acts referred to be left to their operation, with the exception of that on which a further Report is to be submitted.

Certified.

WM. H. LEE,
Clerk Privy Council.

NEW BRUNSWICK, 34TH VICTORIA, 1871.

2ND SESSION—22ND GENERAL ASSEMBLY.

Lieutenant-Governor Wilmot to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, NEW BRUNSWICK, 29th May, 1871.

SIR,—I have the honor to enclose the copy of " An Act relating to the Synod of the Church of England, in the Diocese of Fredericton and Province of New Brunswick," which, by the advice of the Attorney-General, I have reserved for the signification of the pleasure of His Excellency the Governor General.

I am not aware of anything unconstitutional in the Bill, but the Attorney-General thought that, as the first section contained the clause " Any rights of the Crown to the contrary notwithstanding," it had better be reserved, I hope it may be in your power to advise His Excellency the Governor General to signify his assent at an early day, so that action may be had, preparatory to the meeting of Synod in July.

I have, &c.,

(Signed) L. A. WILMOT,
Lieutenant-Governor.

The Honorable the Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th June, 1871.

The undersigned has the honor to report that a Bill passed by the Legislature of New Brunswick at its late Session, Chap. 8, entitled: " A Bill relating to the Synod of the Church of England, in the Diocese of Fredericton and Province of New-Bruns-

wick," has been reserved and transmitted by the Lieutenant-Governor of that Province for the signification of the pleasure of Your Excellency.

The undersigned having carefully examined the provisions of the said Bill, is of opinion that it is within the jurisdiction of the Legislature of New Brunswick, and as no rights of the Crown are affected by it, he recommends that Your Excellency do give your assent thereto.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

Proclamation giving assent to the Act above mentioned.

Whereas, by an Act passed in the 31st year of Her Majesty's reign, intituled: "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for purposes connected therewith," it is amongst other things enacted that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies, by Speech or Message to each of the Houses of the Legislature, or by proclamation, that it has received the assent of the Governor General in Council;

And whereas, on the 17th day of May ultimo, the Lieutenant-Governor of the Province of New Brunswick reserved a certain Bill, passed by the Legislative Council and Assembly of the said Province, intituled: "A Bill relating to the Synod of the Church of England, in the Diocese of Fredericton and Province of New Brunswick," for the signification of the Governor General's pleasure thereon;

And whereas, the said Bill, so reserved as aforesaid, has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General,—

Now, therefore, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth, by these presents order, by and with the advice of his Privy Council, and declare his assent to the said Bill.

And the Secretary of State for the Provinces is to give the necessary directions herein accordingly.

Certified.

(Signed) W. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th January, 1872.

The undersigned, to whom were referred certified copies of the Acts of the General Assembly of the Province of New Brunswick, passed in the month of May, 1871, in the thirty-fourth year of Her Majesty's reign, has the honor to report that all the said Acts, excepting Chapters 1, 16, and 19, are free from objection, and he recommends that they be left to their operation.

With respect to Chapter 1, the 14th Section of the Act is in excess of jurisdiction. It provides that the Police Magistrate of the City of Fredericton shall have power to do alone such acts as are required to be done by two or more Justices of the Peace.

This provision is general in its terms, and would be held, it is presumed, to authorize the Police Magistrate to act alone in criminal cases where the Statutes of the Dominion provide that two or more Justices must act. Such an enactment, though a very proper one, is beyond the competence of the Local Legislature, as it, in effect, repeals the provision in the Act of the General Legislature.

The attention of the Government of New Brunswick should be invited to this, with the view of having the clause amended at the next Session. There will be no difficulty in obtaining a general Act from the Dominion Parliament, providing that Police and Stipendiary Magistrates should have the powers usually conferred on two or more Justices.

It should also be noticed that the 2nd Clause recites the title of the Act inaccurately, which error should be amended.

Chapter 19, "An Act to authorize the appointment of a District or Stipendiary Magistrate for the County of Gloucester," is objectionable for the same reason as above given respecting Chapter 1.

With respect to Chapter 6, intituled: "An Act in addition to an Act passed in the 33rd year of the Reign of Her present Majesty, intituled: "An Act to continue and amend an Act to regulate the sale of Spirituous Liquors,"—the undersigned thinks it well to remark, that he entertains considerable doubt whether it and the Act which it amends are not, in some respects, *ultra vires*.

The 92nd Section of the Union Act gives to Provincial Legislatures the exclusive power of making laws in relation to shop, saloon, tavern, auctioneer and other licenses, in order to the raising of Revenue for Provincial, Local or Municipal purposes.

The Acts in questions, however, go further than making provision for the raising of revenue by charging license fees. They contain certain clauses placing restrictions on the issue of tavern licenses, such restrictions having no connection with any revenue purpose.

Now, by the Union Act, the duty of all legislation relating to the regulation of trade and commerce, is thrown upon the General Legislature, and, in the opinion of the undersigned, the provisions in these Acts are in regulation of trade, and do not concern the raising of revenue.

The undersigned recommends that the Act be left to its operation, leaving it to any persons thinking themselves aggrieved by any action under these Provincial Statutes, to test their constitutionality in the Courts. The attention of the Provincial Government should, however, be called to the matter as worthy of their consideration.

Numerous petitions to His Excellency the Governor General, from the Roman Catholics of New Brunswick, most respectably signed, have been received, praying that the Act, Cap. 21, intituled: "An Act relating to Common Schools," be disallowed.

The grounds upon which this prayer is based are:

1. That the Act will greatly destroy or greatly diminish the educational privileges which Catholics enjoyed at the time of the passing of the British North America Act, and subsequently.

2. That the pecuniary grants hitherto made to the graded schools have been taken away, although to these grants Catholics may, in most cases, be fairly regarded as having a prescriptive right.

Now, the Provincial Legislatures have exclusive powers to make laws in relation to education, subject to the provisions of the 93rd Clause of the British North America Act. Those provisions apply exclusively to the denominational, separate or dissentient schools, they do not, in any way, affect or lessen the power of such Provincial Legislatures to pass laws respecting the general educational system of the Province.

The Act complained of is an Act relating to Common Schools, and the Acts repealed by it apply to Parish, Grammar, Superior and Common Schools.

No reference is made in them to Separate, Dissentient or Denominational schools, and the undersigned does not, on examination, find that any Statute of the Province exists establishing such special schools.

It may be that the Act in question may operate unfavorably on the Catholics or on other religious denominations, and if so, it is for such religious bodies to appeal to the Provincial Legislature, which has the sole power to grant redress.

As, therefore, the Act applies to the whole school system of New Brunswick, and is not specially applicable to Denominational schools, the Governor General, has, in the opinion of the undersigned, no right to intervene.

As to the second objection respecting pecuniary grants, these must, of course, be under the annual supervision of the Legislature, which has the sole power to deal with the public funds; unless, by special enactment, those grants have been conferred for a specified period by an Act of the Legislature.

In such case the grant might be considered in the nature of a contract, and the repeal might be held to be a breach of that contract.

The undersigned does not find that any such Statutory contract has been made. Under the circumstances he is, therefore, of opinion that no other course is open to the Governor-General, than to allow the Act to go into operation.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd January*, 1872.

The Committee of Council have had under consideration the annexed Report, dated 20th January, 1872, from the Honorable the Minister of Justice, and, for the reasons given therein, they advise that the several Acts passed by the General Assembly of the Province of New Brunswick, in the month of May, 1871, in the thirty-fourth year of Her Majesty reign, be left to their operation, but that the attention of the Government of that Province be called to the three chapters to which exception is taken by the Minister of Justice, a copy of whose Report they recommend be forwarded to the Lieutenant-Governor of New Brunswick through the Secretary of State for the Provinces.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th October, 1872.

The undersigned has the honor to report:—

1. That, upon the 30th May last, the House of Commons of Canada passed the following Resolution:—

"That this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick as to remove any just grounds of discontent that now exist, and this House deems it expedient that the opinion of the Law Officers of the Crown in England, and, if possible, the opinion of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union, in respect of religious education in the Common Schools,

with the view of ascertaining whether the case comes within the terms of the 4th sub-section of the 93rd clause of the British North America Act, 1867, which authorizes the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting Education in the said Act. The House divided, and it was resolved in the affirmative."

2. That the sections of the British North America Act, 1867, to which allusion is above made, are as follows :—

"EDUCATION.

"93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions:—

"(1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union:

"(2.) All the powers, privileges and duties at the Union, by law conferred and imposed in Upper Canada, on the Separate Schools and School Trustees of the Queen's Roman Catholic subjects shall be, and the same are hereby, extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec:

"(3.) Where in any Province a system of separate or dissentient schools exists by law at the Union, or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council, from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects, in relation to education:

"(4.) In case any such Provincial law, as from time to time, seems, to the Governor General in Council, requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section, is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor General in Council under this section."

3. That the Act of the Province of New Brunswick, of 1871, referred to in the Resolution of the House of Commons, is as follows:—

34th Vic., Cap. 21, 1871. "An Act relating to Common Schools," passed 17th May, 1871."

4. That an appeal by petition was thereupon made to His Excellency the Governor General, by the Roman Catholic Hierarchy, Clergy and Laity of the Province, against the last recited Act, and praying that His Excellency would be pleased to disallow the same under the powers conferred by the British North America Act, 1867. The Petition, which was printed in numerous copies and signed by the Roman Catholics in different parts of the Province, is as follows:—

"*To His Excellency The Right Honorable Baron Lisgar, G.C.M.G., Governor General of Canada, &c., &c., &c.:*

"The petition of the undersigned Catholics of Memramcook, Dorchester, Westmoreland, in the Province of New Brunswick, humbly sheweth:—

"That the Act relating to Common Schools, passed at the late Session of the Local Legislature of this Province, if allowed to go into operation, will destroy or greatly diminish the educational privileges which the Catholics of this Province enjoyed at the time of the passing of the British North America Act, and subsequently.

"That under the School Law in force in this Province at the time of the passing of the British North America Act, and up to the present time, Catholics were enabled, wherever their numbers were sufficiently large, to establish schools in which a good religious and secular education was afforded.

"That in the Cities and other centres of large populations, for the wants of which the law did not sufficiently provide, your petitioners at a cost truly enormous, when

compared to their means, erected large and commodious buildings in which they established and maintained Graded Schools, equal in all respects to any Primary Schools existing in these Provinces, and that they received Legislative grants to aid in the maintenance of those schools. To these grants they may, in most cases, be fairly regarded as having a prescriptive right.

"That in districts in which Catholics were too few in number to maintain Separate Schools they could not be compelled to contribute to the support of any schools in which they had reason to apprehend that anything would be done to sap the faith or weaken the religious convictions of their children; and that this afforded them a safeguard and protection which the Act lately passed will wholly destroy.

"That the School Act of last Session was not asked for or desired by the people of this Province, but was passed through an undue influence brought to bear upon the Members of the Legislature; several Members of the Assembly—who when elected were known to be opposed to this measure—having by the use of that influence been induced to violate their pledges and disregard the well-understood wishes of their constituents.

"That when the Bill was before the Legislature, the Catholics, who were more than one-third of the entire population of the Province, asked by petition that the right enjoyed by the Protestant Minority in the Province of Quebec, to establish Dissentient or Separate Schools, should be accorded to them, and that this was refused.

"That in the Legislative Council, an amendment giving the right to establish Separate Schools was only lost on equal division.

"That the Act of last Session provides that there shall be a compulsory rating and assessment for the support of Schools in every County in the Province, in a fixed proportion to the number of the inhabitants, and that no part of the money so raised, or of any money appropriated by the Provincial Government under this Act for educational purposes, shall be given to any school in which the education is religious.

"That in the several School Districts in which the Counties are to be divided, other sums are to be raised for school purposes, and the determination of the amount and of the mode of expenditure, the appointment of Trustees and all that concerns the management of the schools, are vested absolutely in the majority; thus, by process of law, depriving your petitioners, who, in most instances, are in the minority, of all rights and all the protection of law.

"That, if this Act be allowed to go into operation, your petitioners will be compelled to contribute to the support of a school system of which they conscientiously disapprove. And if they would not expose their children to what they regard as the most serious and alarming dangers, they must maintain other schools at their own expense--thus paying twice, while others pay but once; or when their numbers or means will not enable them to establish and maintain schools to which they can with safety send their children, they will be compelled to allow them to grow up in ignorance.

"That this would be a most serious infringement upon the rights of your petitioners—a most serious deprivation of the educational privileges they have hitherto enjoyed—and a palpable violation of the spirit of the British North America Act.

"Your Petitioners therefore humbly pray that Your Excellency will be pleased to disallow the said Act.

"Signed by Rev. C. Lefebvre, S.S.C., and 537 others."

To this petition answer was made as follows (a Despatch to the same effect being also sent to the Government of New Brunswick) :—

"DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 24th January, 1872.

"MY LORD [SIR],—

"I am directed to enclose to Your Lordship (you) an extract from the Report of the Minister of Justice on the numerous petitions from the Roman Catholics of New Brunswick, praying that the Act Chapter 21, of the last Session of the Legislature of New Brunswick, intituled: "An Act relating to Common Schools," be dis-

allowed, and to inform Your Lordship (you) that the conclusions of the said Report have been agreed to by His Excellency the Governor General in Council.

"I have, &c.,

"(Signed) E. PARENT,
Under Secretary of State.

"To His Lordship the Bishop of Chatham, Chatham, N.B.,
"To His Lordship Bishop Sweeny, St. John, N.B.,
"The Reverend James Quinn, Catholic Pastor, St. Stephen, N.B."

(*Extract from the Report of the Minister of Justice, dated 20th January*, 1872).

"Numerous petitions to His Excellency the Governor General, from the Roman Catholics of New Brunswick, most respectably signed, have been received, praying that the Act, Chapter 21, intituled: 'An Act relating to Common Schools,' be disallowed.

"The grounds upon which the prayer is based are:—

"1. That the Act will destroy or greatly diminish the educational privileges which Catholics enjoyed at the time of the passing of the British North America Act, and subsequently.

"2. That the pecuniary grants hitherto made to the graded schools have been taken away, although to these grants Catholics may, in most cases, be fairly regarded as having a prescriptive right.

"Now, the Provincial Legislatures have exclusive powers to make laws in relation to education, subject to the provisions of the 93rd clause of the British North America Act. Those provisions apply exclusively to the denominational, separate or dissentient schools; they do not in any way affect or lessen the power of such Provincial Legislatures to pass laws respecting the general educational system of the Province.

"The Act complained of is an Act relating to Common Schools, and the Acts repealed by it apply to parish, grammar, superior and common schools. No reference is made in them to separate, dissentient or denominational schools, and the undersigned does not, on examination, find that any Statute of the Province exists establishing such special schools.

"It may be that the Act in question may operate unfavorably on the Catholics, or on other religious denominations, and, if so, it is for such religious bodies to appeal to the Provincial Legislatures, which has the sole power to grant redress.

"As, therefore, the Act applies to the whole school system of New Brunswick, and is not specially applicable to denominational schools, the Governor General has, in the opinion of the undersigned, no right to intervene.

"As to the second objection respecting pecuniary grants, these must, of course, be under the annual supervision of the Legislature, which has the sole power to deal with the public funds; unless, by special enactment, those grants have been conferred for a specified period by an Act of the Legislature.

"In such case the grant might be considered in the nature of a contract, and the repeal might be held to be a breach of that contract.

"The undersigned does not find that any such statutory contract has been made. Under the circumstances, he is therefore of opinion that no other course is open to the Governor General than to allow the Act to go into operation.

"All which is respectfully submitted.

"(Signed) JOHN A. MACDONALD."

The following correspondence also took place, which, together with all the communications on this subject, was laid before the Parliament of Canada at its last Session.

"*To His Excellency the Governor General:*

"MY LORD,—On behalf of my parishioners and myself, I have the honor to transmit the enclosed memorial. I most respectfully submit you will find in the document itself intrinsic reasons sufficient to induce you in Council to refuse your sanction to a School Bill, against which the entire Catholics of New Brunswick, and many others, protest so generally and so loudly.

"It must appear strange to a Statesman of such great experience and enlightened views as Your Excellency, that whilst Great Britain and Canada, both the guides to wide legislation among the most enlightened inhabitants of Great Britain and British America, and whilst the greatest men those countries have produced—such as the present and last Premiers, Gladstone and Disraeli, the Bishop of Exeter, the Fellows of Trinity College, Dublin, and your own noble, brave and wise fellow-countryman, the late Duke of Wellington—were and are for Separate Schools, to satisfy the consciences and religious convictions of the various denominations in their respective countries, the Local Legislature of New Brunswick would pass a law in opposition to the examples and precedents which they are accustomed to follow.

"But I will not pursue the matter any further. I will leave the case in Your Excellency's hands, fully confident that it will secure from you that discussion which will best secure the peace and serve the best interests of New Brunswick.

"I have, &c.,

"(Signed) JAMES QUINN,

"*Catholic Pastor.*

"The Right Hon. Lord Lisgar,
Governor General, &c, &c.

"P.S.—Hon. Mr. Tilley, whom I met at his residence, St. Andrews, told me the Governor in Council would take the signature of the Pastor for those of his congregation.

"(Signed) JAMES QUINN.

"ST. STEPHEN, N.B., 1st June, 1871."

"*To His Excellency the Governor General of the Dominion of Canada, in Council:*

"The memorial of the undersigned Catholic inhabitants of the Parish of St. Stephen, County of Charlotte, Province of New Brunswick, humbly sheweth:

"That the present School Bill just passed by the Legislature of New Brunswick, had not been desired by the inhabitants of that Province.

"That two-fifths of the entire population have been opposed to its becoming law, as is manifest from the petitions numerously signed which have been presented against it.

"That the School Bill passed the House of Assembly by the votes of a few Members who, if they acted according to the well-known wishes of their constituents, would have defeated it.

"That the Bill would miscarry in the Legislative Council where the votes were equal on the division, had it not been for the vote of a Government official who is a Railroad Commissioner.

"That the Bill is the more grievous and intolerable to the people of New Brunswick, since it deprives them of important privileges long enjoyed—"Separate

Schools," where useful education, founded upon religion, can be taught, and which their fellow-subjects in Canada now possess.

"That, in the opinion of your memorialists, if the School Bill is put into operation, it will be a prolific source of contention and strife in a vast number of the local school districts, the result of which will be the closing of a great number of schools, and the disturbance of that peace which now happily prevails over the Province.

"Your memorialists, therefore, humbly pray that Your Excellency in Council will exercise your prerogative, and refuse to give the sanction of law, to so unfair and obnoxious a measure as this School Bill.

And your memorialists, as in duty bound, shall ever pray, &c.

"Signed on behalf of his parishioners,

"(Signed) JAMES QUINN,

"*Catholic Pastor.*

"St. Stephen, 1st June, 1871."

The Governor General's Secretary to the Reverend J. Quinn.

"Ottawa, 6th June, 1871.

"Sir,—I have the honor, by desire of the Governor General, to acknowledge the receipt of a memorial, signed by yourself, on behalf of the Catholic inhabitants of the Parish of St. Stephen, praying His Excellency to withhold his assent to a School Bill recently passed by the Legislature of New Brunswick.

"In reply I am to inform you that the petition has been duly forwarded to the proper Officer, in order that it may be submitted for the consideration of the Privy Council, by whose advice the Royal instructions bind the Governor General to guide his proceedings in all matters of local concernment.

"I have, &c.,

"(Signed) JOHN KIDD,

"*For the Governor's Secretary.*"

"The Reverend J. Quinn,
"St. Stephen, N.B."

---

5. That the following are copies of the various Acts passed by the Legislature of the Province of New Brunswick, on the subject of the School Law of that Province, showing the law as it existed at the time of the passing of the Act, to which objection is taken, and which were repealed thereby :—

21st Vic., Cap. IX, 1858, "An Act relating to Parish Schools," passed 6th April, 1858.

26th Vic., Cap. VII, 1863, "An Act in amendment of the Act 21st Victoria, Chapter 9, intituled : 'An Act relating to Parish Schools,' " passed 20th April, 1863.

30th Vic., Cap. XXVII, 1867, "An Act relating to Grammar, Superior, and Common Schools," passed 17th June, 1867.

6. That the question remained in this position until the meeting of the Parliament of Canada, in April, 1872. On the 20th of May the subject was brought before the House of Commons, and the following proceedings ensued :—

"Mr. Costigan moved, that an Address be voted to His Excellency, representing : —That it is essential to the peace and prosperity of the Dominion of Canada that the several religions therein prevailing should be followed in perfect harmony by

those professing them in accord with each other, and that every law passed either by this Parliament or by the Local Legislature, disregarding the rights and usages tolerated by one of such religions, is of a nature to destroy that harmony. That the Local Legislature of New Brunswick, in its last Session, in 1871, adopted a law respecting Common Schools, forbidding the imparting of any religious education to pupils, and that that prohibition is opposed to the sentiments of the entire population of the Dominion in general, and to the religious convictions of the Roman Catholic population in particular. That the Roman Catholics of New Brunswick cannot, without acting unconscientiously, send their children to Schools established under the law in question, and are yet compelled, like the remainder of the population, to pay taxes to be devoted to the maintenance of those Schools. That the said law is unjust, and causes much uneasiness among the Roman Catholic population, in general disseminated throughout the whole Dominion of Canada, and that such a state of affairs may prove the cause of disastrous results to all the Confederated Provinces. And praying His Excellency, in consequence, at the earliest possible period, to disallow the said New Brunswick School law.

"And a Debate arising thereon, and the House having continued to sit until 12 of the clock, midnight;

"TUESDAY, 21st May, 1872.

"And the Debate continuing, the said Debate was, on motion of the Hon. Mr. Gray, adjourned until Wednesday next, to be then the first Order of the Day.

"WEDNESDAY, 22nd May, 1872.

"The House resumed the adjourned debate on Mr. Costigan's motion for an Address to His Excellency.

"And the Debate having continued until six o'clock, p. m., Mr. Speaker left the Chair, to resume the same at 7 30 p.m.

"HALF-PAST SEVEN O'CLOCK, P. M.

"The House then resumed the Debate on Mr. Costigan's motion for an Address to His Excellency (as above set forth).

"Hon. Mr. Gray moved in amendment, to leave out all the words after Canada in line 2, and to substitute the following:—'That the constitutional rights of the several Provinces should be in no way impaired by the order of this Parliament—that the Law passed by the Local Legislature of New Brunswick respecting Common Schools, was strictly within the limits of its constitutional powers—and is amenable to be repealed or altered by the Local Legislature, should it prove injurious or unsatisfactory in its operation; that not having yet been in force six months, and no injurious consequences to the Dominion having been shown to result therefrom, this House does not deem it proper to interfere with the advice that may be rendered to His Excellency the Governor General, by the respective Ministers of the Crown, respecting the New Brunswick School Law.'

"Hon. Mr. Chauveau moved in amendment to the said proposed amendment, That all the words after 'that' in the original motion be expunged, and the following inserted in lieu thereof:—'an humble Address be presented to Her Majesty, praying that she will be pleased to cause an Act to be passed amending 'The British North America Act, 1867,' in the sense which this House believes to have been intended at the time of the passage of the said Act, by providing that every religious denomination in the Provinces of New Brunswick and Nova Scotia shall continue to possess all such rights, advantages and privileges, with regard to their schools, as such denomination enjoyed in such Province at the time of the passage of the said last mentioned Act; to the same extent as if such rights, advantages and privileges had been duly established by law.'

"And a Debate arising thereon, the said Debate was, on motion of Hon. Mr. Smith (Westmoreland), adjourned until Wednesday next, to be then the first Order of the Day.

"WEDNESDAY, 29th May, 1872.

"The House resumed the adjourned Debate on Mr. Costigan's motion for an Address to His Excellency.

"And the Debate having continued until six o'clock p.m., Mr. Speaker left the Chair, to resume the same at 7.30 p.m."

HALF-PAST SEVEN O'CLOCK P. M.

"The House then resumed the adjourned Debate on Mr. Costigan's motion, for an Address to His Excellency, on the subject of the New Brunswick School Law :—and of Hon. Mr. Gray's proposed amendment thereto ;—and of Hon. Mr. Chauveau's amendment to the said proposed amendment (as above set forth).

"And the question being put on Hon. Mr. Chauveau's amendment in amendment, it was negatived :—Yeas 34, Nays 126.

"The question being then put on the Hon. Mr. Gray's proposed amendment,

"Mr. Colby moved in amendment thereto, that all after the word 'that' be expunged, and the following substituted in lieu thereof :—'this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick, as to remove any just grounds of discontent that now exist ; which was agreed to on the following division :—Yeas 117, Nays 52.

"Hon. Mr. Dorion then moved that the following words be added to Mr. Colby's motion, viz :—'And this House further regrets that to allay such well-grounded discontent, His Excellency the Governor-General has not been advised to disallow the School Act of 1871, passed by the Legislature of New Brunswick,' which was negatived on the following division :—Yeas 38, Nays 117.

"And the House have continued to sit until 12 of the Clock, midnight ;

THURSDAY, 30th May, 1872.

"And the question being put on the main motion, as amended,

"Hon. Mr. Mackenzie moved, that the following words be added thereto :—

"And that this House deems it expedient, that the opinion of the Law Officers of the Crown of England, and if possible the opinion of the Judicial Committee of the Privy Council should be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union, in respect of religious education in the Common Schools, with the view of ascertaining whether the case comes within the terms of the 4th sub section of the 93rd clause of the British North America Act, 1867, which authorizes the Parliament of Canada, to enact remedial Laws for the due execution of the provisions respecting education in the said Act ;' which was agreed to.

"The question being then put on the main motion, as amended, it was agreed to on a division, and is as follows :—

"That this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick as to remove any just grounds of discontent that now exist, and this House deems it expedient that the opinion of the Law Officers of the Crown in England, and if possible the opinion of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law, as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union, in respect of religious education in the Common Schools, with the view of ascertaining whether the case comes within the term of the 4th sub-section of the 93rd clause of the British North America Act, 1867, which authorizes the Parliament of Canada to enact remedial Laws for the due execution of the provisions respecting education in the said Act ;' the House divided, and it was resolved in the affirmative."

In accordance, therefore, with the Resolution of the House of Commons, the undersigned has the honor to recommend that His Excellency the Governor General be requested to transmit the statement herein made to Her Majesty's Secretary of State for the Colonies, in order that the opinion of the Law Officers of the Crown in England, and if possible the opinion of the Judicial Committee of the Privy Council, may be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law as deprived Roman Catholics of the privileges they enjoyed at the time of the Union in respect of religious education in the Common Schools, with the view of ascertaining whether the case comes within the terms of the 4th sub-section of the 93rd clause of The British North America Act, 1867, which authorizes the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th November,* 1872.

The Committee of the Privy Council have had under consideration the annexed Report, dated 30th October, 1872, from the Honorable the Minister of Justice, submitting, in accordance with the Resolution adopted by the House of Commons on the 30th May last, a statement for transmission to Her Majesty's Secretary of State for the Colonies, in order that the opinion of the Law Officers of the Crown of England, and, if possible, the opinion of the Judicial Committee of the Privy Council, may be obtained, as to the right of the New Brunswick Legislature to make such changes in the School Law as deprived Roman Catholics of the privileges they enjoyed at the time of the Union, in respect of religious education in the Common Schools, with the view of ascertaining whether the case comes within the terms of the 4th Sub-section of the 93rd Clause of "The British North America Act, 1867," which authorizes the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act.

The Committee advise that a copy of this Minute, with the annexed statement, be transmitted by Your Excellency to the Right Honorable the Secretary of State for the Colonies, with a view to carrying out the terms of the resolution referred to; also,

That a copy of the statement and this Minute be forwarded to the Lieutenant-Governor of New Brunswick and to the Right Rev. John Sweeny, D.D., Bishop of St. John, N.B., for any remarks they may think proper to make, and may desire to be transmitted to the Right Honorable the Secretary of State for the Colonies, for consideration in connection with the Minute.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council, Canada.

The Earl of Dufferin to the Earl of Kimberley.

No. 85.

GOVERNMENT HOUSE, OTTAWA, 6th November, 1872.

MY LORD,—I have the honor to enclose a copy of a Report of a Committee of the Privy Council of the Dominion of Canada, approved by me on the 6th instant,

No. 6, 1873. and accompanied by a printed copy of a Report from the Minister of Justice, relative to an Act of the Legislature of New Brunswick relating to Common Schools.

My Ministers have requested me to forward these documents to your Lordship, in accordance with a Resolution adopted by the House of Commons of Canada, on the 30th May last. A copy of this Resolution is given with the other documents in the accompanying Report.

I have, &c.,

(Signed) DUFFERIN.

The Right Honorable
The Earl of Kimberley.
&c., &c., &c.

Under Secretary of State to Bishop Sweeny.

Department of the Secretary of State, Ottawa, 7th November, 1872.

My Lord,—I am directed to enclose to your Lordship a copy of a Report from the Honorable the Minister of Justice, relating to the School question in New Brunswick, with copy of a Report of the Committee of the Honorable the Privy Council, approved by His Excellency the Governor General on the 6th November, 1872.

I have, &c.,

E. PARENT,
Under Secretary of State.

The Right Reverend John Sweeny, D.D.,
Bishop of St. John, New Brunswick.

Secretary of State for Provinces to Lieutenant-Governor Wilmot.

Office of the Secretary of State for the Provinces,
Ottawa, 9th November, 1872.

Sir,—I have the honor to enclose, for the consideration of your Government, a Minute of the Governor General in Council, together with a printed copy of the Re-
(No. 139.) port, therein referred to, of the Honorable the Minister of Justice,
6th Nov., 1873. respecting the School Act passed in 1871 by the Legislature of the Province of New Brunswick.

I am to request that you will have the goodness to communicate to me any remarks you may be advised to make in connection with the Minute, and may desire to have transmitted to the Right Honorable the Secretary of State for the Colonies.

I have, &c.,

(Signed) JOSEPH HOWE,
Secretary of State for the Provinces.

The Hon. L. A. Wilmot,
Lieutenant-Governor, Fredericton.

Bishop Sweeny to Secretary of State.

CATHEDRAL OF THE IMMACULATE CONCEPTION,
ST. JOHN, NEW BRUNSWICK, 18th November, 1872.

SIR,—I beg to acknowledge the receipt of your letter of the 7th instant, with copy of a Report from the Honorable the Minister of Justice, relating to the School question in New Brunswick, and a copy of a Report of the Committee of the Honorable the Privy Council, approved of by His Excellency the Governor General on the 6th November, 1872.

I shall avail myself of the opportunity of sending you, as soon as possible, a paper containing some observations on this question, respectfully requesting that it be transmitted to England with the Report, &c., of the Honorable the Minister of Justice.

I have, &c.,

†J. SWEENY,
Bishop of St. John.

The Honorable J. C. AIKINS,
Secretary of State, &c.

Lieutenant-Governor Wilmot to Secretary of State.

GOVERNMENT HOUSE, NEW BRUNSWICK, 13th November, 1872.

SIR,—I have the honor to acknowledge the receipt of your Despatch (N.B., 139) 9th November, 1872. enclosing, for the consideration of my Government, a Minute of the Governor General in Council, together with a printed copy of the Report therein referred to, of the Honorable the Minister of Justice, respecting the School Act passed in 1871, by the Legislature of the Province of New Brunswick, and requesting me to communicate to you any remarks I may be advised to make in connection with the Minute, to be transmitted to the Right Honorable the Secretary of State for the Colonies.

I have the honor to inform you that I shall this day submit the papers for the consideration of my Government, and hope very soon to be able to transmit a Minute of Council thereon.

I have, &c.,

(Signed) L. A. WILMOT,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces.

Lieutenant-Governor Wilmot to Secretary of State.

No. 97. GOVERNMENT HOUSE, NEW BRUNSWICK, 31st December, 1872.

SIR,—I have the honor of sending with this Despatch a copy of the Minute of my Executive Council on the case submitted by the Dominion Government for the consideration of the Crown Officers in England, on the New Brunswick School Act of 1871, and to request that the same may be laid before His Excellency the

Governor General, to be transmitted to the Right Honorable the Secretary of State for the Colonies, to be submitted to the Crown Officers.

I have, &c.,

(Signed) L. A. WILMOT,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces.

COPY *of a Memorandum of the Executive Council in Committee, approved of by the Lieutenant-Governor on the 23rd day of December, A.D.* 1872.

The Executive Council having had under consideration a copy of a Minute of the Privy Council of Canada, submitting for such remarks as may be thought proper to be made thereon, a statement in reference to the School Law of New Brunswick, made by the Honorable the Minister of Justice, for transmission to the Right Honorable the Secretary of State for the Colonies, in pursuance of a Resolution of the House of Commons of the 30th May last, have the honor to make the following observations:

The statement sets out—

1. The resolution of the House of Commons of 30th May last, on the above subject, which is as follows:—"That this House regrets that the School Act recently passed in New Brunswick is unsatisfactory to a portion of the inhabitants of that Province, and hopes that it may be so modified during the next Session of the Legislature of New Brunswick as to remove any just grounds of discontent that now exist; and this House deems it expedient that the opinion of the Law Officers of the Crown in England, and, if possible, the opinion of the Judicial Committee of the Privy Council, should be obtained as to the rights of the New Brunswick Legislature to make such changes in the School Law as deprived the Roman Catholics of the privileges they enjoyed at the time of the Union in respect of religious education in the Common Schools, with the idea of ascertaining whether the case comes within the terms of the 4th Sub-section of the 93rd Clause of the British North America Act, 1867, which authorizes the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act."

2. Section 93 of the British North America Act, 1867.

3. The Common Schools Act, 1871.

4. Petitions and correspondence from the Roman Catholic clergy, praying His Excellency the Governor General to disallow the last-mentioned Act; together with an extract from the Report of the Minister of Justice, dated 20th January, 1872, recommending that the said Act be allowed to go into operation.

5. The various Acts passed by the Legislature of New Brunswick on the subject of the School Law of the Province, showing the law as it existed at the time of the passing of the Common Schools Act, 1871, and which were repealed thereby, viz:—An Act relating to Parish Schools, 21st Vic., c. 9; An Act in amendment of an Act relating to Parish Schools, 26th Vic., c. 7; and an Act relating to Grammar, Superior and Common Schools, 30th Vic, c. 27.

6. The proceedings of the House of Commons, from the 20th to the 30th May last, in reference to the foregoing subject.

Two questions appear to be raised by the resolution of the House of Commons: the one relating to the powers of the New Brunswick Legislature, the other relating to the powers of the Parliament of Canada.

Before considering such questions, it may be remarked that in the resolution it is assumed, as a fact, that the New Brunswick Legislature, by the passage of the Common Schools Act, 1871, made such changes in the law as deprived the Roman

Catholics of the privileges they enjoyed at the time of the Union in respect of religious education in the Common Schools. This assumption the Executive Council cannot for a moment admit. No privileges are taken away by the Common Schools Act, 1871, except such as were secured by the Statutes thereby repealed; and the Executive Council regret that the House of Commons should have assumed a state of facts, which should dispense with the necessity of examining the Legislation of the Province on the subject.

The first question relates to the right of the New Brunswick Legislature to make such changes in the School Law as were in fact effected by the passage of the Common Schools Act, 1871, and involves the constitutional powers of the Legislature.

Upon this point the Executive Council fully concur in the following opinion of the Minister of Justice, contained in his Report before alluded to:—

"The Provincial Legislature have exclusive power to make laws in relation to education, subject to the provisions of the 93rd clause of the British North America Act, 1867. Those provisions apply exclusively to the denominational, separate or dissentient schools. They do not in any way affect or lessen the power of Provincial Legislatures to pass laws respecting the general educational system of the Province.

"The Act complained of is an Act relating to Common Schools, and the Act repealed by it apply to parish, grammar, superior and Common Schools. No reference is made in them to separate, dissentient, or denominational schools, and the undersigned does not, on examination, find that any Statute of the Province exists establishing such Special Schools. * * * As, therefore, the Act applies to the whole school system of New Brunswick, and is not specially applicable to denominational schools, the Governor General has no right to intervene."

The Executive Concil would not have thought it necessary to add anything in support of these conclusions; but the unwarrantable assumption in the Resolution of the House of Commons as to the effect of the recent Legislation of this Province, and the attempt to maintain that the Roman Catholics had, by the Parish School Act of 1858 (21 Vic., c. 9), rights or privileges with respect to denominational schools which bring the case under the 1st Sub-section of Section 93 of the British North America Act, would seem to render it necessary to examine more particularly the provisions of such section, and the various Acts of New Brunswick set out in paragraph 5 of the case.

In a question affecting the constitutionality of an Act of he Legislature, the Executive Council would refer to the principle which has been uniformly adopted in similar cases by the Supreme Court of the United States. In delivering the judgment of the Supreme Court, in Dartmouth College *vs.* Woodward, 4 Wheaton, 518, Chief Justice Marshall says:—

"This Court can be insensible neither to the magnitude nor delicacy of this question. The validity of a Legislative Act is to be examined, and the opinion of the highest Law tribunal of the State is to be revised. On more than one occasion this Court has expressed the cautious circumspection with which it approaches the consideration of such questions, and has declared that in no doubtful case would it pronounce a Legislative Act to be contrary to the Constitution."

And, again, in Fletcher *vs.* Peck, 6 Cranch, 128, the same learned Judge says:—

"The question whether a law be void for its repugnancy to the Constitution, is at all times a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative in a doubtful case. The Court, when impelled by duty to render such a judgment, would be unworthy of its station, could it be unmindful of the solemn obligation which that station imposes; but it is not on slight implication and vague conjecture that the Legislature is to be pronounced to have transcended its powers, and its acts to be considered as void. The opposition between the constitution and the law should be such that the Judge feels a clear and strong conviction of their incompatibility with each other."

In a case in the Supreme Court of Massachusetts, Wellington, petitioner, 16 Pick., 95, Chief Justice Shaw held that—

"The Courts would never declare a Statute void unless the nullity and invalidity of the Act are placed, in their judgment, beyond reasonable doubt."

And in another case in the Supreme Courts of the United States, Ogden *vs.* Saunders, 12 Wheat, 270, Mr. Justice Washington, after expresing the opinion that the particular question there presented, and which regarded the constitutionality of a State Law, was involved in difficulty and doubt, said :

" But if I could rest my opinion in favor of the constitutionality of the law on which the question arises, on no other ground than this doubt, so felt and acknowledged, that alone would in my estimation, be a satisfactory vindication of it. It is but a decent respect due to the wisdom, the integrity and the patriotism of the Legislative body by which any law is passed, to presume in favor of its validity until its violation of the constitution is proved beyond all reasonable doubt."

By Section 93 of British North America Act, 1867, the Provincial Legislatures have exclusive powers to make laws in relation to education, subject and according to certain provisions. Of these provisions the first declares that nothing in any law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union. This provision is in general terms, and is only in limitation or restraint of the general grant to legislative power.

The second provision refers specifically to Quebec, extending to the dissentient schools of that Province, the powers and privileges in Ontario accorded to the Roman Catholic Separate Schools ; this provision imposes a duty on the Quebec Legislature to make the necessary laws for the due execution thereof. The third provision gives an appeal to the Governor General in Council from any act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects, in relation to education in any Province wherein a system of separate or dissentient schools existed by law at the Union, or should be thereafter established by the Legislature of the Province. Such a system of schools, whereby the religious minority is permitted to escape from the operation of the general public system, and to establish schools of the denomination, existed at the Union in the Province of Ontario under the name of " Separate Schools," and in the Province of Quebec under the name of " Dissentient Schools," but did not at the Union exist, nor has it since been established in any of the other Provinces.

The fourth provision (Sub-section 4) relates to matters of procedure, and vests certain powers of remedial legislation in the Parliament of Canada.

In order to render any law of a Provincial Legislature inoperative under the 1st Sub-section of Section 93, it is requisite that there should in such Province have been at the Union, denominational schools, with respect to which certain class of persons had rights or privileges, and that those rights or privileges should have been secured by law.

This would seem to lead at once to the consideration of the laws in force in New Brunswick at the Union, for the purpose of determining whether, within the meaning of Sub-section 1, Section 93 of the British North America Act, the Roman Catholics had, by such laws, any rights or privileges with respect to denominational schools ; and of the Common Schools Act, 1871, for the purpose of determining whether anything therein prejudicially effected such rights or privileges.

But it has been attempted to be shown that the first Sub-section of Section 93 of the British North America Act, 1867, so clearly refers to New Brunswick that the fact of such a section renders unnecessary any enquiry into its meaning or application. It is said that as Sub-sections 2 and 3 refer specifically, or by clear intendment to the case of Ontario and Quebec, Sub-section 1 must refer to the case of the other Provinces, and therefore presumably to New Brunswick ; and in the use of the words " denominational schools" in the 1st Sub-section, and of the words " system of separate or dissentient schools " in the 2nd and 3rd Sub-sections, is referred to as indicating that the " denominational schools " in the 1st Sub-section cannot include the separate or dissentient schools in the 2nd or 3rd Sub-sections.

The effect and object of this view is to import a supposed intention which shall control the words, and relieve from the embarrassment of investigating the language of the 93rd Section of the school legislation of New Brunswick.

The answer to this is :—

(1.) That Sub-section 1 may have been inserted with no particular intent, but *ex majore cautela.*

(2.) That if it were intended to refer specifically to New Brunswick, analogy to the following sub-sections would have suggested a particular reference.

(3.) That inasmuch as in terms it is large enough to cover the case of any of the Provinces, it is sufficient to enquire whether it is in fact applicable to New Brunswick, without enquiring whether or not it does or does not apply to any other Province. It might equally be contended that it applies to other Provinces because it does not apply to New Brunswick.

(4.) That Sub-section 1 is the general abstract provision, applicable to any Province in which, at the Union, denominational schools existed by law, whether such schools be known as such, or by the secondary and applied name of separate or dissentient schools, and is the only section which imposes restraints upon the legislative power of the Provinces in respect thereto, the remaining sub-sections being particular and remedial provisions. This appears more clear when it is considered that in the scheme of Union agreed to at Quebec, by the representatives of the several Provinces in 1864, and which formed the basis of all the public discussions of the question of Union ; the separate and dissentient schools of Ontario and Quebec were referred to as denominational schools ; for, under the head " Local Government," Resolution 43, of the said scheme, it is declared that the Local Legislature shall *inter alia* have power to make laws respecting the following subjects :—

" 6th. Education : Saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess, as to their denominational schools at the time when the Union goes into operation. "

(5.) That in no view can the language to the Imperial Act be taken as an interpretation of the meaning of the New Brunswick Acts of Assembly.

(6.) But in order to satisfy the terms of Sub-section 1, it is not necessary to resort to the school system of New Brunswick, inasmuch as in each of the Provinces there were at the Union specific denominational schools existing by law, the rights held by the various classes with respect to which are rights protected by this sub-section. Thus in Nova Scotia : King's College, Church of England ; Acadia College, Baptist ; Pictou Academy, Presbyterian ; St. Mary's and St. François Xavier Colleges, Catholic. In Quebec : L'Assomption College ; Laval University, Catholic. In Ontario : Regiopolis College, Bytown College, St. Michael's College, Victoria College.

So in New Brunswick, standing outside of the general school system, and in no respect under the control or inspection of the public or educational authorities, and in no wise affected by the provisions of the Common School Act, 1871, there were three denominational schools : the Madras School, in which the members of the Church of England have interests different from the public at large (see Acts of Assembly, 60th George III, Chap. 6) ; the Wesleyan Academy (see Acts of Assembly, 12th Victoria, Chap. 65), and the Wesleyan College (see Acts of Assembly, 21st Victoria, Chap. 57).

If it were proposed by Provincial Legislation to derogate from the statutable rights of those institutions, it might reasonably be contended that such legislation would be inoperative and void ; for example, if it were proposed to deprive the Wesleyan College of the right of conferring degrees, or to interfere with the rights of the Governor and Trustees of the Madras School, under their Charter, confirmed by Act of Assembly, 60th George III, Chap. 6, or to repeal Section 11 of the Act incorporating the Trustees of the Wesleyan Academy at Mount Allison, Sackville, which provides that—

" No person shall teach, maintain, promulgate, or enforce any religious doctrine or practice in the said Academy, or any department thereof, or in any religious services held upon the said premises, contrary to what is contained in certain notes on the New Testament, commonly reported to be the notes of the said Reverend John Wesley, A.M., and in the first four volumes of sermons commonly reputed to have been written and published by him.

It is submitted, therefore, that it cannot be assumed that the general provision of Sub-section 1, Section 93 of the British North America Act, refer particularly to this Province; and much less that they refer to the general school system of the Province, which existed under the several Acts of Assembly, 21st Vic., Chap. 9, 26th Vic., Chap. 7, and 30th Vic., Chap. 27.

Whether or not such sub-section does cover the case of schools established under the said several Acts of Assembly is a matter of interpretation of the language both of the Imperial and Provincial Statutes.

The Provincial Statutes consisted of the Parish School Act of 1858 (21st Vic., Chap. 9), and the Acts 26th Vic., Chap. 7, and 30th Vic., Chap. 27, in amendment.

The Parish School Act of 1858 was a general public Act, operating territorially through the parish, which in New Brunswick, constitutes the municipal unit for civil purposes. The Act provided for a central and local control of the schools; the central control consisting of the Board of Education, a Superintendent and four Inspectors, the local control consisting of three Trustees and a School Committee of three persons. The Superintendent and Inspectors were appointed by the Governor in Council, and the Governor and his Council, with the Superintendent, constituted the Board of Education. The Trustees were parish officers, elected by the ratepayers of the parish, at the same time and in the same manner as other parish officers, and were subject to the same penalties as other parish officers. (See section 6, Clause 1, 21st Victoria, Cap. 9). They were thus officers of the Civil Government, performing civil functions, and amenable solely to civil authorities, and representing the people in their character as ratepayers, being no more religious bodies or exercising denominational functions, than the other parish officers elected at the same time and in the same manner, viz.:—Overseers of the Poor, Constables, Assessors, and Collectors of Rates, Fence-Viewers, Pound-Keepers, Field-Drivers, Hog-Reeves, &c., &c.

Those Trustees, as Parish officers, divided their respective Parishes into convenient School Districts, convenient in respect of the civil purposes which the Trustees were elected to effect; and from time to time reconstruct them, and defined in writing the boundaries of each district, and filed a description thereof with the Clerk of the Peace (See section 6, clause 2).

The public, as opposed to the denominational system, is apparent in the provisions with respect to districting, for it is evident how impossible it would be to divide a Parish into districts territorially corresponding with the religious features of the population, and to define such boundaries in writing.

The Trustees, as Parish officers, controlled the appointment of the teacher, and gave authority to open the school. (See Sec. 6, Clause 3). They might suspend, or displace a teacher. (See Sec. 6, Clause 4). They summoned a meeting of the ratepayers of the district for the purpose of electing a School Committee (see Section 6, Clause 5), and they apportioned amongst the School Districts in their respective Parishes and money raised by County or Parish assessment for the support and maintenance of the schools therein, in such manner as they might deem just and equitable. (See Sec. 6, Clause 10).

In all this they acted solely as civil officers, and in the discharge of a public duty were governed by public considerations.

The remaining body having local control was the School Committee. This Committee was elected by the inhabitants of the School District being ratepayers (see Sec. 7, Clause 1), and had the immediate charge of the school house and property, library, &c.; they called meetings of the district to determine upon the support of the school; had charge of the money of the district, and care and direction of the children. (See Section 7, Clauses 2-6.) And in towns and populous districts, the ratepayers of the district might elect one or more Committees for the district, or a Committee for each school, as might be decided by a majority of the electors present (Sec. 26th Vic. Cap. 7, Sec. 2). The school meeting was therefore a collection of ratepaying inhabitants of the district; and such meeting called for the purpose had power to order a rate for the support of the school, or the entire County or Parish

might provide for the support of the schools of the County or Parish respectively by assessment. (See 21st Vic., Cap. 9, Sections 21-22).

The nature of the School District is thus defined in a judgment of the Supreme Court of New Brunswick, in *ex parte* Jocelyn, 2 Allen's Rep., 639:—

"When the Trustees establish School Districts, the foundation is laid of a special jurisdiction to be exercised by a majority of the inhabitants of the Parish or District ratable upon property, over all the inhabitants of the district."

Such was the structure of the Parish School Act of 1858 (21 Vic., Cap. 9), and it is inconceivable that schools so created, so controlled, so sustained, could for a moment be regarded as denominational schools. They were clearly schools of the ratepayer, not of the denomination. They existed, not in connection with the denomination, but in connection with the State, and vested no rights or privileges in any class of persons.

But it is alleged, that although the schools of New Brunswick were not denominational schools, they were public schools in which denominational teaching was by law permissible; and that the school system of the Province at the Union might be described, not perhaps, as a system of denominational schools, but as a system of public schools in which denominational teaching was legalized, subject to a conscience clause in favor of those children whose parents or guardians objected to that teaching; and Section 8, Clause 5, of the Parish School Act of 1858, is relied upon. That clause is as follows:—

"Every teacher shall take diligent care, and exert his best endeavors to impress on the minds of the children committed to his care the principles of Christianity, morality and justice, and a sacred regard to truth and honesty, love of their country, loyalty, humanity and a universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance, order and cleanliness, and all other virtues which are the ornaments of human society; but no pupil shall be required to read or study in or from any religious book, or join in any act of devotion objected to by his parents or guardians; and the Board of Education shall, by regulation, secure to all children whose parents or guardians do not object to it, the reading of the Bible in parish schools—and the Bible, when read in parish schools by Roman Catholic children, shall, if required by their parents or guardians, be the Douay version, without note or comment."

The Executive Council would, however, maintain that no question of the character of the teaching in the public schools can suffice to restrict the general grant of legislative power on the subject of education vested in the Legislature of New Brunswick; that Sub-section 1 clearly requires the existence of denominational schools, and class rights therein secured by law; that the public schools, under the entire control of the ratepayer and the Provincial authorities, cannot, whatever the character of the tuition, be considered as denominational schools, any right of the individual ratepayer or inhabitant therein being a right as a member of society with respect to public schools, and not a class right with respect to denominational schools; and that, in short, Sub-section 1 has no reference to the general public system of education. But the Executive Council denies that the Parish School Act of 1858 legalized denominational tuition.

Now, in order to determine the extent to which this Act allowed religious teaching to be carried on in the public schools, it is necessary to look to the Act as a whole; for the details of one part of an Act may contain regulations restricting the extent of general expressions used in another part of the same Act.

The right of the Board of Education to prescribe books, maps and apparatus for use in the schools may be implied from Section 4, Clauses 3 and 11, and from Section 5, Clause 7.

By Section 4, Clause 8, the Board of Education had power—

"To provide for the establishment, regulation and government of school libraries, and the selection of books to be used therein; but no works of a licentious, vicious or immoral tendency, or hostile to the Christian religion, or works on controversial theology, shall be admitted."

When works on controversial theology are classed with obscene, vile and infidel publications, and are deemed equally unfit for use in the library, how can it be said that they may be taught in the school room? Prohibited from use under the eye of the parent, shall they be taught by the teacher? Shall the library be shut against them, and shall the school door be open to them? And does not the exclusion from the library, of works on controversial or distinctive dogmatic theology, clearly show that in the contemplation of the Act, the schools were to be schools of the public and not of any sect, and that the Legislature expressly sought to guard against the introduction of sectarian aims into the administration of school affairs?

Again—"The Board of Education shall secure to all children, whose parents or guardians do not object to it, the reading of the Bible in parish schools; and the Bible when read in parish schools by Roman Catholic children, shall, if required by their parents or guardians, be the Douay version, without note or comment." (See Section 8, Clause 5.)

Why without note and comment? If distinctive doctrinal teaching were allowed, why should the Bible, when read by Roman Catholic children, be the Douay version, without note and comment? Why not the Douay version with *note and comment?* Can it be seriously contented that the authorized note and comments by which the Roman Catholic Church declares the meaning of the Scripture shall be excluded, and that the private judgment of the teacher shall expound its meaning, and that this is denominational teaching? Can this be "the fullness of distinctive religious teaching?" and can it be said that the principles of Christianity, which the law required to be impressed upon the minds of the pupils are the principles of Christianity "after a denominational fashion;" when works of controversial theology and the church's interpretation of the Bible were expressly excluded?

Can it be contended that the reading of the Bible, required by the Parish School Act of 1858, to be secured to every pupil, gave a denominational character to the Parish Schools? Although Roman Catholics might ask that their children should have the Douay Bible, without note or comment, read, is not such Douay Bible but a different version of the Holy Scripture from the version which is used by Protestants? Neither version professes to be a denominational or sectarian book, but simply the Word of God; and as such, its use in school cannot be held to be denominational teaching.

It may also here be remarked, that although the Trustees of the Parish, the School Committee and the Teacher, might be all Catholics; and although there might be but a single Protestant in the District, the Parish School Act of 1858 gave to his children the legal right, not only of attending such school, but of requiring the reading of the Protestant version in such school. This is utterly inconsistent with the idea that such a school could be a Roman Catholic denominational school; and it is submitted that the character of the school cannot, under the law, be affected by the presence or absence of a Protestant or Roman Catholic child.

And further, in considering the intention of the Legislature, it is material to look at the consequences.

The clause of the 8th Section above relied on is not permissive, it is mandatory. It does not allow any teacher who may feel disposed to do so, to inculcate the principles of Christianity; it requires every teacher to do so. If then, by the "principles of Christianity," were meant the distinctive and denominational or sectarian expression of those principles, then did the Legislature impose upon every teacher, whether male or female, and however well or ill-qualified, whether of the 1st, 2nd, or 3rd class, the absolute duty of teaching the principles of Christianity in their distinctive doctrinal features. It required every teacher to be a teacher of theology, without requiring any antecedent qualification; and turned every school into a nursery of the Church; a school of faith and polemics, with the further consequence that one school might, at one and the same time, be Protestant and Catholic; the head master teaching in one room according to his light the doctrines of Geneva, and the assistant teaching in another the doctrines of Rome.

It would also be a consequence of this, that a District, by a bare majority of one amongst the ratable inhabitants, might impose assessment upon the entire District, for the purpose in effect of turning the school into a Sunday school, for the propagation of the religious views of the majority. The death or removal of a ratepayer might change the character of the school, and the fate of a denomination might hang upon the solvency of one of its members. Almost every District would be annually torn by contending sects in their unseemly strife for power.

Such a system might be described as a system of concurrent endowment—of endowment of every sect that could secure a majority of one at a school meeting. In a country where no Church is preferred, and no Church is established, it would place in the hands of a dominant sect the State power of taxation, to be wielded for Church purposes.

The meaning of Section 8, Clause 5, is then clear. The Legislature required every teacher to impress on the minds of the children the principles of Christianity, in their non-denominational feature, but lest, in so doing, and in the exercise of the discretion vested in the teacher, religious books might be used, or acts of devotion engaged in, to which any tender conscience might object, the conscience clause was inserted, that no pupil should be required to read or study in or from any religious book, or join in any act of devotion objected to by his parent or guardian. The words of the conscience clause do not enlarge the teaching power; they restrict it. The religious books referred to are non-denominational, such books as the Board of Education would admit to the library. But the teaching of distinctive dogmatic or controversial theology is of the essence of denominational teaching, while it may not unreasonably be concluded that the principles of Christianity to be taught, relate largely to the Christian virtues enumerated in the section itself, in connection with such term.

It requires no great acquaintance with the works of Catholic and Protestant literature to point to numbers of books emanating from each communion, which, while in the fullest sense religious, do no more relate to distinctive doctrinal theology, than the ten commandments or the Lord's prayer.

Whether or not the Legislature judged rightly, that the principles of Christianity are capable of being inculcated in a manner common to the different communions, is not material. It is sufficient that the Legislature thought it possible, following therein a very considerable body of authority.

As long ago as 1635, Sir Thomas Browne, referring to the attitude of the Protestant and Catholic Churches to each other, wrote—

"We have reformed from them, not against them; for, omitting these improperations and terms of scurrility betwixt us, which only difference our affections, and not our cause, there is one common name and appellation, one faith and necessary body of principles common to us both."

And it is well known that in recent times Scripture lessons, sanctioned by the highest authority in the English and Roman Catholic Churches, were for years used with entire satisfaction in the National Schools of Ireland; and the most recent Parliamentary discussions on education show that the question of undenominational teaching is still a question of practical politics.

Such then was the school system of New Brunswick at the Union, and at the passing of the Common Schools Act, 1871; a system of public schools operating territorially over the entire Province; springing out of the operation of the municipal system, subject to the control and inspection of the Government; representing in its local management, the ratepaying inhabitants of the district; exercising at will the civil power of taxation; providing for certain undenominational religious instruction, but providing by a strict conscience clause, for the rights of conscience; requiring the reading of the Holy Scriptures in the ordinary Protestant version, but in the case of the Roman Catholic allowing the Douay version, without note or comment. To speak of such schools as denominational schools, involve the grossest misconception of language.

The term "denominational schools" clearly means the schools of or belonging to, or in connection with, a denomination, and in which the members of the denomination, have, as such, interests other and different from the interest which they have in them as a portion of the public. Such schools are controlled by the denomination in its interests, and exist at least to a certain extent for denominational, as distinguished from public, purposes.

The meaning of the term was well understood by the Imperial Parliament when the British North America Act was under consideration.

For thirty-six years a system of national, as distinguished from denominational, schools, had existed in Ireland, under which combined literary and separate religious instruction had been given.

On the other hand, at the time of the passage of the British North America Act, the system of primary education in England was chiefly denominational, being carried on mainly through the instrumentality of schools in connection with the various denominations. But by the passage of the Elementary Education Act, 1870, the education of the country was placed on a public basis; and whilst existing denominational schools, and those which might be established within a limited period, were recognized and continued in the receipt of public money, the Act provided for the formation of Local School Boards, and the establishment of School Board Schools. By Section 14 it is enacted that—

"Every School provided by a School Board shall be conducted under the control and management of such Boards, in accordance with the following regulations:—

"(1.) The School shall be a public elementary School, within the meaning of this Act.

"(2.) No religious catechisms or religious formulary, which is distinctive of any particular denomination, shall be taught in the School."

Thereby, in the words of Mr. Gladstone, "overthrowing, as far as the rate-school is concerned, the use of that which is the note and characteristic of denominational teaching;" while at the same time admitting of religious instruction, and recognizing the possibility of imparting religious instruction without rendering the school denominational.

In the passage of such Act the present Lord Chancellor thus described those schools, and the character of the religious teaching secured thereby:—

"Religious teaching must be specific, but it need not be sectarian or denominational. The schools would be for every proper purpose, under public observation, superintendence and control, and the exclusion of denominational formularies would tend to remind the teacher that he was not to constitute himself the organ of any particular denomination."

So the Education (Scotland) Act, 1872, establishes a central Board of Education, and places the local control of the school in the hands of a School Board, elected in each parish and burgh by electors with a rate-paying qualification. It invests all the parish schools and property in the School Board, and abolishes all jurisdiction, power and authority possessed or exercised by Presbyteries or other Church Courts, with respect to any public schools. In schools so clearly non-denominational it, however, provides that—

"Every public school, and every school subject to inspection and in receipt of any public money, shall be open to children of all denominations, and any child may be withdrawn by his parents from any instruction in religious subjects, and from any religious observance in any such school; and no child shall, in any such school, be placed at a disadvantage with respect to the secular instruction given therein by reason of the denomination to which such child or his parents belong, or by reason of his being withdrawn from any instruction in religious subjects. The time or times during which any religious observance is practised, or instruction in religious subjects is given, at any meeting of the school for elementary instruction, shall be either at the beginning or the end, or at the beginning and at the end of such meeting, and shall be specified in a table approved of by the Scotch Educational Department."

But it would never be contended that such public schools were denominational schools because they admitted of religious instruction with a conscience clause.

In this Province the term denominational schools has always heretofore been applied to specific schools controlled by a denomination, in which the public, as such, had no rights or interest. These schools stood outside of the general public system, and from time to time their managers, in admission and full recognition of their anomalous position, made application to the Legislature for specific yearly appropriations from the revenue, and over these schools there was no public control or right of inspection.

It is also worth while to inquire what is understood to be denominational schools by the church in whose interests the present reference is made. In a Pastoral Address of the Catholic Archbishop and Bishops of Ireland, dated at Dublin the 20th October, 1871, it is said:—

"As to primary education, therefore, we demand—1st. For all schools which are exclusively Catholic, the removal of all restrictions upon religious instructions, so that the fullness of distinctive religious teaching may enter into the course of daily secu ar education, with full liberty for the use of Catholic books and religious emblems, and for the performance of religious exercises, and that the right be recognized of the lawful pastors of the children in such schools to have access to them, to regulate the whole business of religious instruction in them, and to remove objectionable books, if any. In such schools the teachers, the books and the inspectors shall all be Catholic."

Again, in the Province of Ontario, a system of public schools has existed for about twenty years. These schools not having met the requirements of the Roman Catholic clergy, they broke away from the public school system, and procured the establishment, by law, of the "separate" schools referred to in Sub-sections 2 and 3 of Section 93, of the British North America Act, 1867.

On the 1st of last January, the Roman Catholic Bishop of London, Ontario, issued a Pastoral, which concluded as follows:—

"We have endeavored to point out the importance of Catholic education and the dangers that result from an unchristian education. We have shown that the education imparted in the common schools of Ontario cannot be religious, for the simple reason that it cannot, in justice to all sects, be denominational. We have pointed out the duty of our clergy and of our Catholic parents on this subject, and we earnestly exhort them to be faithful to it. To ensure the efficient working of our separate school system, we, having invoked the holy name of God, deem it our duty to ordain as follows:—

"Art. 1. No Catholic parent living within the legal limits of a separate school shall send his children to mixed or common schools, they being adjudged by the Canadian hierarchy as dangerous to faith and morals. Should any Catholic parent unfortunately persist in violating this ordinance, he shall be refused the Holy Sacraments until such time as they shall consent to obey the Church in this matter.

"Art. 2. Every Catholic ratepayer, living within the legal limits of a separate school, shall pay his school taxes to said school, under a penalty of being refused the Holy Sacraments. If, for grave and special reasons, exemption should be claimed from these ordinances, let the Pastor, and if necessary, the Bishop, be consulted, and their directions followed.

"We hereby renew the wise ordinance of our predecessor:—

"Art. 1. In any school section whose Trustees are Catholics, no other than a practical Catholic shall be chosen to fulfil the duties of a teacher, whether male or female.

"Art. 2. The School Trustees are to consult their respective Pastors in regard to the appointment or dismissal of the said teachers, as well as in all that concerns the general good of the Parochial Schools.

"Art. 3. In case of a dissent between the Pastor and the Trustees in this matter, recourse shall be had to the Bishop, who, after hearing both sides, will give a decision, which shall be final.

"Art. 4. Inasmuch as any school, established and maintained in opposition to these rules, can no longer be considered as Catholic, the Pastor, after consulting the Bishop, will forbid parents to support said schools, or to send their children thither."

Now, what is the character of the schools, to attend which, as dangerous to faith and morals, subjects the offender to the refusal of the Sacraments? They are schools in which, by the 129th Section of the Consolidated Common Schools Act of Upper Canada, 22 Vic., Cap. 64, it is provided, almost in the language of the New Brunswick Parish School Act of 1858, that—

"No person shall require any pupil in any such school to read or study in or from any religious book, or to join in any exercise of devotion or religion objected to by his or her parents or guardians; but within this limitation pupils shall be allowed to receive such religious instruction as their parents and guardians desire, according to any religious regulations provided for the government of Common Schools."

And by Regulation 5 of the Regulations made by the Board of Education under such Act, it is provided that the teacher "shall daily exert his best endeavors, by example and precept, to impress upon the minds of pupils the principles and morals of the Christian religion, especially those virtues of piety, truth, patriotism and humanity which are the basis of law and freedom, and the cement and ornament of society."

It is with reference to such schools that the Bishop of London says, that the education therein imparted cannot be religious, for the simple reason that it cannot, in justice to all sects, be denominational.

Inasmuch, then, as in New Brunswick, at the Union, and at the time of the passing of the Common Schools Act, 1871, the Roman Catholics had by law no rights or privileges with respect to denominational schools, nothing in the Common Schools Act can have deprived them of rights or privileges which they did not previously enjoy. The effect of the Common Schools Act was to repeal the Parish School Act of 1858, and the amendments thereof; to alter the distribution of power between the local and general authorities; to substitute a system of rate-supported schools for a system of schools, supported either by rates or voluntary subscription. On the question of religious teaching it preserves silence,—neither excluding the Bible from the school or legislating it into the school; neither requiring or prohibiting the inculcation of the principles of Christianity in their non-denominational features; neither prescribing nor proscribing such religious instruction, but simply providing that the schools should not be turned to sectarian purposes.

In this connection the Executive Council would refer to some of the allegations of the Petition of Rev. C. Lefebvre and others, set out in paragraph 4 of the case.

It is there stated that under the School Law in force at the Union, and up to the passing of the Common Schools Act, 1871, the Catholics were enabled, wherever their numbers were sufficiently large, to establish schools, in which a good religious and secular education was afforded.

No such right existed "under the law;" nothing in the Parish School Act of 1858 prevented the establishment of private schools outside of the law, as nothing in the Common Schools Act, 1871, prevents the establishment of similar schools. An irregular and defective administration of the law might tolerate illegal practices, and allow parties to derive unwarrantable advantages in violation of the law; but privileges enjoyed in violation of the law cannot give rights under the law. For example:—The Executive Council does indeed find that, at one time, certain of the branches of the Madras School, a denominational school existing by special Act, and under special control, inconsistent with the public control provided for by the Parish School Act of 1858, did, whilst receiving specific pecuniary grants yearly voted by the House of Assembly in aid of Special Schools, also receive the allowances from the Provincial Treasury secured by the Parish School Act of 1858 to the teachers of Parish Schools, the same having been improperly recognized by the local Trustees and School Committees, as a Parish School. But this imperfect admin-

istration of the law has never been, by the Governor and the Trustees of the Madras School, claimed to give a legal status under the law. It was an irregularity which the law was of itself sufficient to check.

It is also stated:—"That in districts in which Catholics were too few in numbers to maintain separate schools "—a term never known in this Province as applied to the schools of New Brunswick—" they could not be compelled to contribute to the support of any schools in which they had reason to apprehend that anything would be done to sap the faith or weaken the religious convictions of their children, and that this afforded them a safeguard and protection which the Act lately passed will wholly destroy."

And, in the same petition, the injurious operation of the Common Schools Act, 1871, is thus described:—

"That in the several School Districts into which the Counties are to be divided, other sums are to be raised for school purposes, and the determination of the amount and of the mode of expenditure, the appointment of Trustees, and all that concerns the management of the schools, are vested absolutely in the majority, thus, by process of law, depriving your petitioners, who, in the most instances, are in the minority, of all rights and all the protection of the law."

Nothing could more clearly mark the confusion of mind into which the petitioners have fallen.

For, under the Parish School Act of 1858, as well as under the Common School Act, 1871, the Districts into which the Counties were divided had the power of raising school money by assessment, and determining the amount and the mode of expenditure; and all that concerned the management of the schools was vested absolutely in the majority. Thus, in the language of the petition, "depriving the petitioners, who, in most instances, are in the minority, of all rights and all the protection of the law."

Under the Common Schools Act, 1871, this power of the majority cannot be used to compel the minority to support schools, in which the distinctive doctrines of any sect may be taught.

But if the contention of those be correct who maintain that the Parish School Act of 1858 provided for denominational schools, or legalized denominational teaching, the power of the majority could, under that Act, have been exercised to compel Catholics to contribute to the extension of Protestant doctrines. Thus, in the words of the petition, "depriving Catholics, who, in most instances, are in the minority, of all rights and all protection of the law."

If, as alleged, Catholics could not, under the Parish School Act of 1858, be compelled to contribute to the support of any schools in which they had reason to apprehend that anything would be done to sap the faith or weaken the religious convictions of their children, it could be only the supposition that that Act which gave to the majority the power of ordering assessment, did not admit of denominational schools being established under its provisions.

It is thus evident that the Common Schools Act, 1871, so far from prejudicially affecting the right of Catholics, secure them against the possibility of hostile action of the Protestant majority, and that no more dreadful consequence could fall upon the Roman Catholics, who are one-third of the population, than the re-enactment of the Parish School Act, with the interpretation sought to be placed upon it, of legalizing the establishment of denominational schools, or the teaching of sectarian theology.

Another objection to the Common Schools Act is, that it deprives Catholic graded schools, in the cities and large towns, of pecuniary legislative grants.

The answer to this is, briefly—

(1.) That such grants were not secured by law, but were simply annual votes passed in Supply, in aid of Special Schools.

(2.) That the Common Schools Act, 1871, does not seek to restrict the right and power of the House of Assembly to dispose of the public funds as may, from time to time, think proper.

The second general question involved in the Resolutions of the House of Commons relates to the extent of the power of the Parliament of Canada to pass remedial laws in reference to education.

If the foregoing remarks, in respect of the power of the Legislature of New Brunswick to pass the Common Schools Act, 1871, be correct, and, if there be nothing in that Act contravening the provisions of Section 93 of The British North America Act, 1867, it is evident that the Parliament of Canada can have no right of legislation in the matter, remedial or otherwise.

But the Executive Council are not prepared to admit that the Parliament of Canada would, in any event, have legislative jurisdiction. An examination of Section 93 would appear to show that the power of the Parliament of Canada does in no way extend beyond the matters specifically referred to in Sub-sections 2 and 3.

Sub-section 1 is a general abstract provision in limitation of the general grant of legislative powers given to the Local Legislatures in the matter of education. It is a general saving clause, under which the rights of the Roman Catholic and Protestant minorities in Ontario and Quebec, in respect of their separate and dissentient schools, are saved; whilst for greater caution being extended to cover similar rights in any of the Provinces, should such exist. It is the generalized expression of the following provision of the Quebec Scheme, before alluded to:—

"(6.) Education, saving the rights and privileges which the Protestant or Roman Catholic minority in both Canadas may possess, as to their denominational schools, at the time when the Union goes into operation;"

which Quebec scheme having been the basis of the desire for Union, referred to in the preamble of "The British North America Act, 1867," may be looked to for light in the interpretation of the latter Act.

Now, the effect of this general saving clause is, that it shall be read into every Act of the several Local Legislatures respecting Education. It is the same as if such words were expressly inserted by way of proviso in every such Act; and so far, and only so far, as the rights thereby secured are prejudicially affected by Provincial legislation, the Act becomes inoperative and devoid of force of law. Those rights continue as before unaffected by any legislation, and the Courts will uphold such rights in the same manner as if they were expressly saved by such legislation.

It is to be further noted, that the provision is negative and restraining. It does not require the Legislature to enact laws for the preservation of the rights referred to; it simply requires that the Legislatures shall not in certain cases make laws, and provides that if they do, their legislation shall be *ultra vires*, or at least that it shall not operate to effect certain objects.

Sub-section 2 on the other hand, grants certain rights to the minorities in Quebec, and therefore imposes impliedly on the Legislature of that Province the duty of executing such provision.

Sub-section 3 provides a remedy by appeal to the Governor General in Council from any act or decision of any Provincial Authority, affecting any right or privilege of the Protestant or Catholic minority in relation to education in any Province wherein separate schools exist by law (whether at the Union or subsequently established). Here it is to be observed that the words "act or decision of a Provincial Authority," rather seem to point to matters of administration, as, for instance, to the acts or decision of the Executive authority, or of the Board of Education.

Sub-section 4 vests certain powers of passing remedial laws in the Parliament of Canada. But it is to be noted that this power is given in but two cases—

1st. Where any Provincial law, as seems to the Governor General requisite for the due execution of the provisions of the section, is not made; and

2nd. Where any decision of the Governor General in Council on any appeal under the section is not duly executed by the proper Provincial authority in that behalf.

Taking the second branch of the power first: it gives the right of legislation where the decision of the Governor General in Council on appeal is not duly executed by the proper Provincial authority; but the jurisdiction of the Governor General on appeal is limited to cases arising under Sub-section 3.

The other branch of the power is where the Provincial Legislature has made default in passing the requisite legislation for the due execution of the provisions of the section.

This is clearly applicable only to Sub-section 2, under which something is required to be executed. The minority in Quebec is thereby vested with certain rights, and the duty cast upon the Legislature of that Province to pass the necessary legislation to effectuate the object; in other words Provincial law becomes necessary for its execution. But the words are not applicable to Sub-section 1, by which Provincial Legislatures are not required to act, but are forbidden from acting, and by which the legislation of the Local Legislatures is, to the extent that it contravenes the provisions of Sub-section 1, entirely inoperative and of no force of law, being to that extent *ultra vires* and unconstitutional.

Nor does it impair the force of this, that the power of Parliament is not expressly limited to cases under Sub-sections 2 and 3, but extends to the section, because the section is in its nature entire; and the same extended reference is made to the "section" in the case of the failure to execute the appeal of the Governor General in Council, as in the case of the failure to have the requisite legislation. The words in the one case are: "any decision of the Governor General in Council on any appeal under this section," and in the other: "any Provincial law requisite for the due execution of the provision of this section." But it is clear that the appeal only lies under Sub-section 3, and the word "section" there means that part of the section to which the case is properly referrable.

In short, the power of legislation is in the Parliament of Canada in two cases; the case were appeal lies to the Governor General in Council, under Sub-section 3, and the case where something which is required to be executed is not executed, as under Sub-section 2. The provisions of Sub section 1 do not require execution, or the passage of any Provincial law to execute them. They execute themselves, and subject all Provincial laws to their operation. No remedy is needed, because no wrong can be inflicted; they lie in the protection of the law. But as in the system of denominational schools, such as those of Ontario and Quebec, Provincial authorities may by act or decision interfere with rights or privileges, the section makes provision under Sub-section 3 for such cases of injurious administration, act, or decision.

The Executive Council would further observe, that while the subject was under discussion by the House of Commons, and before the adoption of the Resolution of the 30th May, they, on the 29th May last, caused to be transmitted by telegraph to the Privy Council of Canada, the Minute of Council, of which a copy is hereunto annexed, marked A, by which it will be seen that the Government of New Brunswick, on behalf of the people of that Province, entered their most earnest protest against any dealing with the Common Schools Act, 1871, by the Parliament of Canada.

The Executive Council in making the foregoing remarks, do not desire it to be understood that they are assenting parties to the submission to the opinion of the Law Officers of the Crown in England, of the right of the New Brunswick Legislature exclusively to deal with the subject of Education; on the contrary, they most respectfully now enter their protest against any such submission; and while they entertain that just respect which should properly be accorded to any opinion on the subject emanating from such distinguished lawyers, they foresee the greatest danger as likely to arise from such a course.

The question, whether the Common Schools Act, 1871, is *ultra vires* within the intent and meaning of the 93rd Section of The British North America Act, 1867, is at present pending in the Supreme Court of New Brunswick, and the parties in whose interest it is now sought to obtain the opinion of the Law Officers of the Crown, have had their views, with all the facts, presented and argued before the Supreme Court by some of the ablest gentlemen of the Bar in New Brunswick. The decision and judgment of the Supreme Court will be given in Hiliary Term (February) next, and as an Appeal from such judgment will lie to the Judicial Committee of the Privy Council, it does appear to the Executive Council that any opinion that the Law

Officers of the Crown may give, can in no way settle the question; for should the opinion of the Law Officers of the Crown differ from the judgment of the Supreme Court, neither the Legislature nor the Courts of New Brunswick would feel bound by such opinion. And, again, were the opinion of the Law Officers so differing, such as to lead the Dominion Parliament to legislate upon the subject, any such law of the Dominion Parliament might, by the New Brunswick Courts, be held to be *ultra vires*.

The Supreme Court of New Brunswick, in the case of the Queen *vs.* Chandler, 1 Hannay's Report, p. 548, having held that—

"An Act passed by the Legislature of New Brunswick, on the 23rd March, 1868, "intituled: An Act in amendment of Chapter 124, Title 34, of the Revised Statutes, "'Of Insolvent Confined Debtors,' was an Insolvent Act which the Legislature of "New Brunswick had no power to pass since The British North America Act, 1867, "came into force, and was, therefore, invalid and void; the Parliament of Canada "having, under the Imperial Statute, the exclusive power to legislate on Bankruptcy "and Insolvency; and that the assent of the Governor General to such Provincial "Act would not make it valid; the Court holding that where an Act of the Local "Legislature conflicts with the British North America Act (it being an Imperial "Statute) the Court will pronounce upon its validity;"

they may, and no doubt would, equally hold as *ultra vires* any legislation of the Dominion Parliament interfering with the exclusive power of the New Brunswick Legislature to legislate on the subject, with the sole limitation mentioned in the 1st Sub-section, Section 93, British North America Act; and thus if the Common Schools Acts, 1871, be determined by the Supreme Court to be not *ultra vires*, it is clear an Act passed by the Parliament of Canada on the subject, upon the assumption that it is so, would be necessarily of no force or effect.

Entertaining the strongest view possible of the constitutionality of the Common Schools Act, 1871, the Executive Council would regret to see such a conflict of law as would arise, should the Supreme Court uphold that view, and the Law Officers of the Crown arrive at a contrary conclusion, and they see, as the only legal and constitutional determination of the question, an appeal to the Judicial Committee of the Privy Council, from the judgment of the Supreme Court, by the dissatisfied parties.

Any other course than this will not prove satisfactory to the people of New Brunswick, and in no other way, and by no other judgment, will they permit their rights in the matter of the Act in question, to be settled.

A.

IN COUNCIL, 29TH MAY, 1872.

Read the following Memorandum of the Executive Council in Committee:—

The Executive Council in Committee have observed the introduction into the House of Commons of Canada, of a Resolution that an Address be presented to Her Majesty, praying that she will be pleased to cause an Act to be passed amending The British North America Act, 1867, in the sense in which the House of Commons believes to have been intended at the time of the passage of the said Act, by providing that every religious denomination in the Provinces of New Brunswick and Nova Scotia shall continue to possess all such rights, advantages and privileges with regard to their schools, as such denomination enjoyed in such Province at the time of the passage of the said last-mentioned Act, to the same extent as if such rights, advantages and privileges had been duly established by law.

The avowed object of such Resolution is the overthrow of the recent legislation of New Brunswick relating to Common Schools, which legislation is admittedly within the powers of the Legislature of this Province under the constitution as it exists.

Upon the question of fact embodied in the Resolution, the Committee beg to say that in none of the discussions and negotiations publicly carried on previous to the Union, was it regarded by any parties in this Province, that the then existing legislation upon the subject of education, partook in any respect of the character of finality, or conferred vested rights upon any class, nor did any portion of the people of New Brunswick openly seek to secure the permanence or continuance of such legislation and procedure. There had not been in this Province, as in some of the other Provinces, any legislative compromise on the question of denominational education, and the people of New Brunswick would certainly have repudiated any arrangement which sought to limit their freedom of action.

It appears to have been reserved for the representation of other Provinces of the Dominion to discover that the assumed privileges of a certain portion of the people New Brunswick were intended to be secured to a greater extent, than was by them at the time supposed or intended.

It is now proposed that the powers of the Provincial Legislatures shall be determined, not by the language of the constitution, but according to the sense which is believed to have been intended by a body that at the time of the passage of the Act had no existence, and from which in this case the constitution expressly withdraws the power of legislation.

The Committee, desirous of preserving the Union, cannot refrain from drawing the attention of the Government and Parliament of Canada to the alarming character and consequence of the above Resolution. Those consequences far outweigh in importance the particular subject involved. The assumption, by the Government and Parliament of Canada, of the right to seek the imposition of further limitations of the Union, tending to the destruction of the powers and independence of the Provincial Legislatures, and to the centralization of all power in the Parliament of Canada.

The people of New Brunswick cannot and will not so surrender their rights of self-government within the limits of the constitution, and will regard the passage of such Resolution as an infringement of the constitution, by those whose duty and interest should lead them to uphold the rights of the Provinces, while maintaining the powers of the General Government.

The Executive Council in Committee therefore hasten to warn the Government and Parliament of Canada of the danger involved in the passage of the said Resolution, which, if passed, whatever its effect upon the course of Imperial Legislation, must stand as a precedent of innovation of Provincial rights, fruitful of evil; and in the name of the people of New Brunswick, and invoking the protection of the constitution, the Executive Council in Committee protest against the passage of such Resolution, and emphatically assert the right of the Legislature of New Brunswick to legislate upon all questions affecting the education of the country, free from interference by the Parliament of Canada.

[*Approved.*]

Secretary of State to Lieutenant-Governor Wilmot.

OFFICE OF THE SECRETARY OF STATE FOR THE PROVINCES, OTTAWA, 4th January, 1873.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 97, of the 31st ultimo, covering a copy of a Minute of Your Executive Council, on (No. 3.) the case submitted by the Dominion Government for the consideration of the Crown Officers in England, on the New Brunswick School Act of 1871, and requesting that the same may be laid before the Governor General, with a view to its transmission to the Right Honorable the Secretary of State for the Colonies.

Your Despatch and its enclosures will be submitted without delay for the consideration of His Excellency in Council.

I have, &c.,

(Signed) JOSEPH HOWE,
Secretary of State for the Provinces.

The Honorable L. A. WILMOT,
Lieutenant-Governor, Fredericton.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 10*th January*, 1873.

The Committee have had under consideration the Despatch, No. 97, dated 31st December, 1872, from the Lieutenant-Governor of New Brunswick, enclosing copy of a Minute of his Executive Council, on the case submitted by the Dominion Government for the consideration of the Crown Officers in England, on the New Brunswick School Act of 1871, and requesting that the same may be laid before Your Excellency, for transmission to the Right Honorable the Secretary of State for the Colonies, to be submitted to the Crown Officers.

The Committee advise that Your Excellency will be pleased to transmit the Minute in question to the Earl of Kimberley to be laid before the Crown Officers, as requested.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Bishop Sweeney to the Secretary of State.

CATHEDRAL OF THE IMMACULATE CONCEPTION, ST. JOHN, N.B., 18th January, 1873.

SIR,—I beg to forward the enclosed printed papers containing the opinions of Charles Duff and C. W. Weldon, Esquires, legal gentlemen of high standing in their profession, regarding the School Law of New Brunswick, lately passed by our Local Legislature, and also statistics to show that the Catholics have been deprived, by this law, of privileges—the right to give religious instruction in the schools, to establish Catholic Schools, &c.—which they enjoyed and exercised freely under the former School laws of the Province.

I send these papers in accordance with the Report of the Committee of the Honorable the Privy Council, approved by His Excellency the Governor General on the 6th November, 1872, in order that they may be transmitted to England with the Report of the Honorable the Minister of Justice. I have been obliged to delay longer than I had intended sending in these documents, on account of the stormy weather of the past month and the difficulty, in consequence, of communicating with distant localities.

I beg most respectfully to request that this question, so important to the Catholics of New Brunswick, may be brought before the Judicial Committee of Her Majesty's Privy Council, and if possible, to be informed when it may be brought

before them, in order that we may have the opportunity of employing Counsel in England to represent us.

I have, &c.,

† J. SWEENEY,
Bishop of St. John.

The Honorable J. C. AIKINS,
Secretary of State of Canada,

Opinion of Messrs. Chas. Duff and C. W. Weldon.

ST. JOHN, N.B., 6th January, 1873.

To the Right Rev. John Sweeney, D.D., Bishop of St. John, N.B. :

YOUR LORDSHIP,—Agreeably to Your Lordship's wish, we have perused the copy of a Report of the Honorable the Minister of Justice, dated 30th October, 1872, submitting, in accordance with the Resolution adopted by the House of Commons, on the 30th May last, a statement for transmission to Her Majesty's Secretary of State for the Colonies, in order that the opinion of the Law Officers of the Crown in England, and, if possible, the opinion of the Judicial Committee of the Privy Council, might be obtained as to the right of the New Brunswick Legislature to make such changes in the School Law, as deprived Roman Catholics of the privileges which they enjoyed at the time of the Union, in respect of religious education in the Common Schools, with the view of ascertaining whether the case comes within the terms of the 4th Sub-section of the 93rd Clause of the "British North America Act, 1867." We have also read the copy of the Report of the Committee of the Honorable the Privy Council thereon, of the 6th November, 1872, advising that it should be submitted by His Excellency the Governor General to the Right Honorable the Secretary of State for the Colonies; and that copies of it should be forwarded to the Lieutenant-Governor of the Province, and to Your Lordship for any remarks which the Lieutenant-Governor or Your Lordship might think proper to make thereon, and that Your Lordship might desire should be transmitted therewith to the Right Honorable the Secretary of State for the Colonies.

The statement of the Honorable the Minister of Justice, sets forth:—1st. The Resolution of the 30th May, 1872. 2nd. The 93rd Clause of the British North America Act, 1867. 3rd. The Common Schools Act, 1871. 4th. The Petition of the Roman Catholic Hierarchy, Clergy, and Laity of this Province, to His Excellency the Governor General praying that the "Common Schools Act, 1871," might be disallowed, as affecting and diminishing the Educational privileges which the Roman Catholics enjoyed in this Province at the time of the Union; the reply of the Under Secretary of State for the Colonies thereto; an extract from a Report of the Honorable the Minister of Justice upon the Petition, dated 20th January, 1872, advising that the "Common Schools Act, 1871," should be allowed to go into operation; a correspondence between the Reverend James Quinn and the Governor General's Secretary. 5th. Copies of various Acts of the Province of New Brunswick which were in existence at the time of the Union, and which were repealed by the Common Schools Act, 1871. 6th. The proceedings in the House of Commons on the 21st, 22nd, and 29th May, 1872.

Involved in this statement, and altogether behind the question arising out of the Resolution of 30th May, 1872, is the correctness of the opinion given by the Honorable the Minister of Justice in his Report of the 20th May, 1872. Of course Your Lordship is not prepared to regard that opinion as conclusive, so far as relates to the

constitutionality of the "Common Schools Act, 1871." In the event of its being decided that this is a case for the intervention of the Dominion Parliament under Sub-section 4, there is no doubt that the Roman Catholics of the Province may safely leave the protection of their rights and privileges to that Parliament; but, should the Judicial Committee be of a contrary opinion, then another, and, in a constitutional point of view, a not less important question remains to be decided, viz:—whether it is not covered by Sub-section 1.

According to the opinion of the Honorable the Minister of Justice, the high respect which any legal opinion of his is always entitled to receive, we cannot help thinking that the one which he gave in his Report of the 20th January, 1872, so far as it relates to the constitutionality of the "Common Schools Act, 1871," is erroneous. He says:—"The Provincial Legislatures have exclusive powers to make laws in relation to education, subject to the provisions of the 93rd Clause of the British North America Act. These provisions apply exclusively to the *Denominational*, Separate or Dissentient Schools, they do *not in any way affect or lessen the power of such Provincial Legislatures to pass laws respecting the general educational system of the Province.* The Act complained of is an Act relating to Common Schools, and the Acts repealed by it apply to Parish, Grammar, Superior, and Common Schools. No reference is made in them to Separate, Dissentient or Denominational Schools, and the undersigned does not, on examination, find that any Statute of the Province exists establishing such special schools. As therefore the Act applies to the whole school system of New Brunswick, and is not especially applicable to Denominational Schools, the Governor General has, in the opinion of the undersigned, no right to intervene."

The 93rd Clause of the British North America Act gives the Local Legislatures power exclusively to make laws in relation to education, provided those laws do not "prejudicially affect any right or privilege with respect to Denominational Schools, which any class of persons have by law in the Province at the Union." Is not this a qualification of the power of the Local Legislature to make "Laws respecting the General Education System of the Province?" If it should pass a law respecting "The General Educational System of the Province," any of the provisions of which did "prejudicially affect" any such right or privilege, would not that law, or its provisions to the extent to which they affected such privileges, be *ultra vires* and void? If not, the first sub-section would seem to be entirely inoperative.

It may be difficult to define, with certainty, what the Imperial Legislature meant in the 1st Sub-section; but surely the Minister of Justice is in error when he assumes that they intended to use the word "Denominational" there as synonymous, or rather as corresponding with the terms "Separate" and "Dissentient" in the other sub-sections. If such had been their intention, one would expect to find it associated with these terms in the 3rd Sub-section, but it is not. The fact that it is not so associated with these words there, affords a strong, if not a conclusive argument, that it ought not to be associated with them at all. The Legislature has not placed them in the same category, and what right have we to do so?

The word "Denominational" itself is of modern invention; it is not to be found in Johnson and Walker's Dictionary. In the Imperial Dictionary it is defined as "of or pertaining to a denomination." When we find it, as here, in the same clause with "Separate" and "Dissentient," we must conclude that it was intended to convey a meaning *somewhat different* from either of these words, or that it was meant to be applied to a different state of circumstances, else why it is used at all? In the 2nd Sub-section, the words "Separate" and "Dissentient" are applied to the Schools of the Roman Catholic Minority in Upper Canada, and those of the Protestant Minority in Lower Canada. In both these Provinces the Schools of the Minority are Separate Schools. In Upper Canada they are designated *eo nomino* (Consolidated Acts of Upper Canada, p. 768, 22 Vic., c. 65); in Lower Canada they are called "Dissentient" (*vide* Consolidated Acts, Lower Canada, p. 61.) These terms in that sub-section are both used to signify schools which are under the separate and exclusive control of the Roman Catholics or the Protestants respectively, as the case might be, and they are not confined in their application to the Provinces of old Canada. By the 3rd Sub-sec-

tion they are made applicable to any school of a similar character which might then be in existence, or which might thereafter be established *in any Province of the Union*. If the Roman Catholics had a system of *Separate* Schools established by law, in this Province or in Nova Scotia at the time of the Union, they are comprehended within the 3rd Sub-section beyond a doubt; and, unless the first was intended to apply to a different description of schools, there was no necessity for inserting it in the Act at all. By every rule of construction, it seems to us that the word "Denominational" in this connection, must be taken to refer to schools, not of the same exclusive character as the Separate Schools of Upper Canada, but which shall yet possess something "pertaining to denominations." Would there be nothing "pertaining to denominations" in schools where, whilst the Bible is read, the conscientious scruples of each denomination are respected? Schools of this kind would not be Separate—would not be Dissentient, but they would surely be Denominational. We are at a loss to conceive what schools could exist, possessing features "pertaining to denominations" and which would *not be Separate* Schools unless they are of this mixed kind where denominational teaching is recognized and protected. In Quebec and Ontario the rights of Protestants and Catholics in these respects are amply protected and secured by the 2nd and 3rd Sub-sections. In Nova Scotia there is no section of schools to which the language of either section could be applied, but, in this Province, the Act 21 Vic., c. 9 (1858), secured to Roman Catholics a donominational right precisely of this kind. That Act regulated the Common Schools (in the Act itself very inappropriately called *Parish* Schools), at the time of the Union.

By the 8th Section it is, amongst other things, enacted "That every teacher shall take diligent care, and exert his best exertions to impress on the minds of the children committed to his care the *principles of Christianity*, morality, &c., &c.; but no pupil shall be required to read or study from any *religious book*, or join in any *act of devotion* objected to by his parents or guardians, and the Board of Education shall, by regulations, *secure to all children, whose parents or guardians do not object to it, the reading of the Bible in Parish Schools;* and the Bible, when read in Parish Schools by Roman Catholic children, shall, if required by the parents or guardians, be the *Douay version*, without note or comment."

This section secures the teaching of *Christianity* to all; it *secures the reading of the Bible* in the schools to all who do not expressly object; it *secures* to the children of Roman Catholics the *Douay version*. It does more, it sanctions the use of religious books and acts of devotion by all pupils whose parents do not object to them. Can it be said that there is nothing "pertaining to denominations" in schools established under this section? In any school established under this Act, at which the children of both Protestant and Roman Catholic parents attended, the conscientious scruples of each denomination would be protected. And thus whilst it would not be separate, it would be denominational. In schools of this mixed character, it would be difficult, if not impossible, to give a right of appeal to every alleged violation of the rights of a pupil, such as is given by the 3rd Sub-section, where Separate and Dissentient Schools exist, and therefore we do not find the Denominational classed with the Separate and Dissentient Schools in that section, as they most certainly would have been, if they possessed the same exclusive character, and were under the exclusive control of either denomination. Furthermore, the rights of the minorities in these schools were of a *negative* rather than a positive character. The parents may *object* to the Bible being read, or to any but the *Douay version*, or they may *object* to religious books or to acts of devotion. If they do not object, either version of the Bible must be read, and any religious book may be read, or any acts of devotion may be performed. So, in the British North America Act, 1867, the difference there in the phraseology of the 1st from that of the 2nd, 3rd, and 4th Sub-sections is marked and significant. The former is negative; the latter are affirmative. If the 1st Sub-section had been framed expressly with a view to protect rights of the peculiar kind possessed by Roman Catholics in the schools of this Province, it would be difficult to find language more appropriate for the purpose.

From another point of view, the language of that sub-section is singularly appropriate to the rights enjoyed at the time of the Union by Roman Catholics in this Province, in connection with the Common Schools then established, arising out of local circumstances. It will be observed that it is not merely a system of *Denominational* Schools, as it is a *system* of Separate or Dissentient Schools in the context, which is protected by this sub-section. The Minister of Justice has indeed so read it; but we respectfully submit that he is wrong. It cannot possibly be so read. It is a right or privilege in respect of "Denominational Schools," and not a system of *Denominational* Schools which is spoken of. Such a right might exist, to be asserted under certain conditions, and yet no *system* of Denominational Schools be established by the Act itself. If the law gave to the Roman Catholics a right to call into existence schools exclusively of their own denomination, under certain conditions of time or place or otherwise, then that would be a right or privilege in respect of Denominational Schools, which they possessed under the law, even although they had never exerted it. The right would be the same, whether exerted or not, and even if no opportunity had occurred for availing themselves of it.

The right the Roman Catholics had under the Act of 1858, and the 6th Section of that Act provides for the election of Trustees of Schools, and for the division of their respective parishes "into convenient School Districts." It requires them to "give any licensed teacher authority, in writing, to open a school in a district where the inhabitants have provided a sufficient school house, secured the necessary salary, and with their assent agreed with such teacher." It empowers the trustees to "suspend or displace any teacher" for improper conduct, &c, and directs them, in such case, "to transmit a copy of their proceedings for the decision of the Board." It requires them to call a meeting of the rate-payers of the district for the purpose of electing a School Committee; and in towns or populous districts, the trustees may authorize "such number of schools as the wants of the population may require. The 7th Section provides for the election of the School Committee by the Rate-payers of the school district, and it gives this Committee, when elected, the immediate charge of the school house, the control of the library, and of the appropriation of moneys raised in the district for the purpose of providing a library, subject, of course, to the provisions of the 8th paragraph of the 4th Section, which excludes work of a licentious, vicious, or immoral tendency, or hostile to the Christian religion, and works on controversial (but not dogmatic) theology.

In many parts of this Province, as Your Lordship is well aware, the Roman Catholics largely preponderate and in some they constitute the entire population. In the latter places they elected Trustees and School Committees, "provided sufficient school houses," "secured the necessary salary," and employed teachers. In such places trustees, committees, teachers, parents and pupils were all Roman Catholics, the Douay Bible alone was used, and the religious books and acts of devotion were generally the same as those employed in the Separate Schools in Upper Canada and in the schools (not dissentient) of Lower Canada. These schools were established and were lawfully in existence at the time of the Union, under the Act of 1858; the teachers in them were appointed, and made their returns under the Act, and they received their share of the Provincial allowance under it.

Again, "in towns and populous places" the trustees had established schools which were exclusively Roman Catholic, and they had done so strictly in accordance with the provisions of the law, which empowered them in such cases to establish "such number of schools as the wants of the population might require." All these schools were established and governed in every respect in accordance with the provisions of the Act of 1858, and they were returned by the Superintendent of Education in his annual Report as Parish, or, more appropriately, Common Schools. In one instance, a teacher of a school of this kind was dismissed by the trustees, under the 6th Section, for improper conduct, and his dismissal having been duly reported was approved of by the Board of Education; the improper conduct being a refusal to use the Roman Catholic Catechism in his school.

By the return of the Superintendent of Education for the year 1870, there were 825 Common Schools or Parish Schools in the Province receiving the Provincial allowance under the Act of 1858, and of that number so returned by him, upwards of 250 were exclusively Roman Catholic.

The right thus to establish schools composed exclusively of Roman Catholic children, in localities where the population is composed exclusively of that denomination; the power given to the trustees to establish them in populous districts; the protection afforded to the conscientious scruples of the minority in mixed schools where all "rights and privileges" in respect to denominational schools which the Roman Catholics of this Province had, as a class, by law at the time of the Union.

It has been urged by some of the advocates of "the Common Schools Act, 1871" (but certainly not by the Minister of Justice), that the denominational rights and privileges mentioned in the first sub-section, refer only to such corporate privileges as have been conferred upon institutions like the Wesleyan Academy at Sackville, the Acadia College in Nova Scotia, or the McGill College in Montreal, belonging respectively to the Wesleyan, Baptist and Presbyterian denominations. This argument does not commend itself to our minds as of any weight. The institutions referred to are not Common Schools in any sense of the term. They confer degrees, they have courses of lectures, and their whole system of teaching is different. The Act of the Imperial Parliament, 31 and 32 Victoria, Cap. 118, makes provisions for the good government and extension of certain public schools in England, and it was deemed necessary, in order to include Eton and Winchester Colleges, specially to name them.

The Dartmouth College case, 4 Wheaton, U. S. Reports, is an authority to the effect that Corporations of such a character as these, form no part of the General Educational or Common School system of the country. Whatever aid they received from the Province, moreover, was in the shape of annual grants, to which they had no vested rights, and which the Legislature might at any time refuse to make. And it was not the different Protestant denominations which were referred to at all. There is nothing in the context of the British North America Act, 1867, to give the slightest color of support to such an argument. Christians, in the 93rd Section, are divided into two great classes, the same into which all Christendom have been divided for centuries, the Roman Catholic and Protestant. The manifest design of the section is in accordance with all modern British legislation—to protect the minority from the encroachments of the majority.

The same division of classes is to be found in the 8th Section of the Act of 1858. It is the Protestant Bible on the one hand, and the Douay version on the other. It is not Methodist, or Baptist, or Presbyterian. Therefore, whether we construe the first sub-section by the context, by the light of contemporary legislation, or by the circumstances and position of affairs in the Province, to which the law was to be applied, the conclusion is the same—the Roman Catholics and the Protestants are the only classes of persons before the minds of the Legislature.

The "Common Schools Act, 1871," repeals the Act of 1858, and thereby deprives Roman Catholics not only of the right which that Act secured to them of having the Douay Bible read by their children in the mixed schools, but also the privilege which they had under it creating schools of a character exclusively Roman Catholic, where the population was entirely Roman Catholic, and deprives the Trustees of the authority which they formerly had of establishing Roman Catholic Schools in populous places. The 60th Section of the Act of 1871 enacts, that "all Schools conducted under the provisions of the Act shall be non-sectarian.". This emphatically prevents the use of the Douay Bible, or of the Catholic Catechism, or of religious books, or the performance of any acts of devotion. By the 58th Section, Sub-section 12, it is enacted that "*no public funds shall be granted* in support of any School, unless the same be a Free School, and *conducted in every respect in conformity* with this Act and the Regulations of the Board of Education;" and this deprives Roman Catholics of the Provincial allowance which was secured to them by the Act of 1858, when they complied with its conditions. Moreover, it is under the provisions of the Act of 1871 that the Board of Education derives the authority to make, and that it has made,

the following regulation:—"Regulation 20:—*Symbols or Emblems in the School Room.* Symbols or emblems, distinctive of any National or other Society, political party or religious organization, shall not be exhibited or employed in the School Room, either in its general arrangement or exercises, or on the person of any Teacher or Pupil."

So long as the Act of 1858 continued to be law, the Board would not have dared to promulgate such a regulation. Catholics were secured against any such outrage by the Act. The Board, moreover, had no power under the Act of 1858 even to *prescribe* the books to be used in Schools. We are, therefore, constrained to say that, in our opinion, the "Common Schools Act, 1871," does "prejudicially affect" rights and privileges which were secured to the Roman Catholics of this Province, as a class, in respect of Denominational Schools.

We observe that Mr. Colby's Resolution and the Report of the Honorable the Minister of Justice both contemplate taking the opinion of the Law Officers of the Crown in the matter, and, if possible, the opinion of the Judicial Committee of the Privy Council. In a matter involving a great constitutional question, and affecting the whole Roman Catholic population of the Province, Your Lordship will not, of course, allow their rights to be concluded or compromised by assenting to take the opinion of the Law Officers of the Crown as conclusive. However high the professional standing and ability of these gentlemen may be, nothing less than the opinion of the highest judicial tribunal in the country can settle such a question. And we assume that the Canadian Government are disposed to afford the Roman Catholics of the Province every facility for the settlement of the question, so far as it can be disposed of by any Judicial Tribunal; and if they are so disposed, we think that the opinion of the Judicial Committee can be obtained. If the Report of the Minister of Justice, together with the statements of all parties, are forwarded to the Right Hon. the Secretary of State for the Colonies, through His Excellency the Governor General, accompanied by a request that the Secretary of State will lay the whole matter before the Judicial Committee to advise Her Majesty thereon, we think that the opinion of the Committee can be obtained.

Her Majesty has at all times the right to require the advice of Her Privy Council, and the Judicial Committee are a portion of that Council.

That Committee was established under the Act 3rd and 4th William IV, c. 41. The 3rd Section of that Act gives the Committee certain appellate jurisdiction in legal matters; and the 4th Section is as follows:—"And be it further enacted, that it shall be lawful for His Majesty to refer to the said Judicial Committee, for hearing or consideration, *any such other matter* whatsoever as *His Majesty shall think fit*, and such Committee shall thereupon hear and consider the same, and shall *advise His Majesty thereon* in manner aforesaid."

Under the 3rd Section, the Committee exercise appellate jurisdiction; under the 4th they will advise Her Majesty on any matter she shall "think fit to refer" to them; and this last section has been acted upon in a great variety of cases when the Committee were not sitting as a Court of Appeal at all.

Amongst the matters so referred by Her Majesty to the Committee for their advice, we may refer to the following:—

In re the States of Jersey, 11 Moore's, P. C. C. 320. This was a petition from Philip Gibaut, Esq., Constable of St. John, and 1,497 rate-payers and other inhabitants in the different parishes in the Island of Jersey, against an Act of the States, dated 30th April, 1850.

One objection to the Act in question arose under an Order in Council of 28th March, 1771, whereby it was ordered, "That when anything is proposed to the Assembly of the States, it shall be wrote down in the form in which it is meant to be passed, and then it shall be debated; after which it must be lodged, *au Greffe*, for 14 days at least, before it shall be determined, in order that every individual of the States may have full time to consider thereof, and the Constables to consult their constituents, if they judge necessary.

The requirements of this law had not been complied with. The Act in question had not been lodged *au Greffe* for fourteen days.

The Judicial Committee advised Her Majesty that the objection was fatal to the Act, and it was disallowed.

Ramsay *vs.* The Justices of Sierra Leone, 8 Moore's P. C., 47. This was a petition presented by Ramsay to the Judicial Committee, praying for leave to appeal from certain orders of the Recorder's Court of Sierra Leone, imposing fines on the petitioner for contempt of Court. The Court held that they had no jurisdiction to entertain a petition impugning the propriety of such orders; but they say: "In the circumstances disclosed by this petition, if Her Majesty's Secretary of State thinks fit to refer the matter to us, we will hear it, and advise Her Majesty upon the case." Acting upon this intimation, the *appellant presented a similar petition to Her Majesty through the Colonial Office*, setting forth the same facts, and praying that such petition might be referred to the Judicial Committee.

The matter was specially referred by the Colonial Office for the consideration of the Judicial Committee to advise the Crown. The Judges of the Court, whose orders were appealed against, were served with a copy of the petition, and filed their answer.

Affidavits were filed on both sides in support of the respective cases. Counsel were heard on both sides, and the Judicial Committee advised Her Majesty to reduce the fines.

In re Stronach, 2 Moore's P. C. C. 311 (1838). This was a petition for leave to appeal against an order made by the Chief Justice of the Supreme Court of the Island of Grenada, in relation to the slaves on a certain estate, called the Grand Ance. The Colonial Act, No. 250, made in pursuance of the Slave Abolition Act, 3 and 4, William IV, c. 73, made the jurisdiction of the Chief Justice of the Supreme Court final and conclusive in such a matter. The Judicial Committee held that no appeal would lie from the order of the Chief Justice, and said: "We think the only course is for the petitioner to present a petition to the Crown through the Secretary of State, *and then it can be referred to us generally* for our opinion. We have no jurisdiction as it stands."

In re the Island of Cape Breton, 5 Moore's P. C. C., p. 259.

"This was a petition from certain inhabitants of the Island of Cape Breton against the annexation of that Island to Nova Scotia. The object of the petition was to obtain restoration of the Constitution alleged to have been granted by His Majesty King George III, in 1784, and for the convening of a Local Legislature, under a Lieutenant-Governor, Council, and Assembly, conformably to such grant, and that the laws of Nova Scotia, and the authority of its Legislature might no longer be enforced over the Island of Cape Breton."

This petition prayed, amongst other things, that the Constitution of 1784 should be restored to them, and for the convening of their Local Legislature, under a Lieutenant-Governor, Council and Assembly; but that, if there should possibly exist any doubt of the petitioners' strict legal and constitutional rights, they further prayed that, as a matter of expediency, and to protect the interests of the inhabitants of the Island, and in consideration of the injuries inflicted upon them by the annexation, His Majesty would be pleased, in the exercise of his prerogative, to grant as an act of great favor, the separation of Cape Breton from Nova Scotia, and to permit the Island to enjoy a similar constiution to that of its sister Island of Prince Edward, &c.

The petition was referred by Her Majesty to the Judicial Committee of the Privy Council, with directions that the petitioners should be confined in their argument before that tribunal to the bare question raised by them, and were not to be permitted to enter into any question of public convenience or policy. Notice was required to be given of the petition having been so referred to the Legislative Council and House of Assembly of Nova Scotia, who were authorized, if they thought fit, to appoint Counsel to appear on their behalf and oppose the claim of the petitioners.

The Legislature of Nova Scotia, having been specially summoned by the Lieutenant-Governor in consequence of such notice having been given, declined to appoint an Agent or to instruct Counsel to represent them at the Bar of the Judicial

Committee, expressing their confidence in the learning and ability of the Officers of the Crown, and the integrity and wisdom of the eminent tribunal, before whom these Officers were to vindicate the legality of the annexation. They accordingly put in no case, nor did they appear by Counsel.

The petitioners having been so directed, lodged a case in which they set forth the facts, as stated at length in the Report, 5 Moore, together with a summary of the constitution of the Colony, and referred to a variety of precedents and authorities from which they contended that the annexation in 1820, of Cape Breton to Nova Scotia, and the Legislative authority of that Province over the Island ought to be adjudged illegal for reasons set forth in their case as stated in the Report *in re* Moore.

A case was also put in on the part of the Crown, wherein it was submitted that the re-annexation of the Island to Nova Scotia was, in the circumstances, strictly legal, for reasons also therein set forth.

Counsel was then heard before the Judicial Committee on behalf of the Petitioners, and also on the part of the Crown.

No judgment was delivered on the petition, but the Report of their Lordships, which was afterwards confirmed by Her Majesty in Council, was as follows:—

"The Lords of the Committee, *in obedience to Your Majesty's said order of reference*, have taken the said petition into consideration and have heard Counsel on behalf of the said petitioners, and have likewise heard Your Majesty's Attorney General on behalf of Your Majesty's Crown, and their Lordships understanding it to be Your Majesty's pleasure that their Lordships consideration of the matter referred to them, by Your Majesty's said order of reference, should be confined to the question whether the inhabitants of Cape Breton are by law entitled to the Constitution purporting to be granted to them by the Letters Patent of 1784 mentioned in the said petition, do agree humbly to *report their opinion to Your Majesty, that the inhabitants of Cape Breton are not so entitled.*"

In addition to these the cases *in re* Pollard, Law Reports, 2 P.C., 106, and *in re* Ramsay, Law Reports, 3 P. C., 427, were questions referred to the Committee by Her Majesty, under the fourth section of the Act.

In conclusion, we advise your Lordship to submit these remarks upon the Report of the Honorable the Minister of Justice, with a respectful request that they should be forwarded by His Excellency, together with that Report, to the Right Honorable the Secretary of State for the Colonies, for the advice of the Judicial Committee of the Privy Council, under the 4th section of 3 and 4 William IV, Cap. 41; and as in the case of the Island of Cape Breton above referred to, the Committee will no doubt, afford your Lordship an opportunity of subtantiating your case by affidavits or otherwise, and of being heard by Counsel before them.

We think, also, that the Acts of Upper and Lower Canada, which establish the system of Separate and Dissentient Schools in those Provinces respectively, and the Acts of Nova Scotia in relation to education in that Province, should be brought under the notice of the Judicial Committee, as well as our Acts of 1858 and 1871.

By collating the Laws on the subject of Common School Education in all the Provinces in existence at the time of the Union, the application of the language of the 1st Sub-section of Section 93 of the British North America Act to the Common Schools of this Province at that time, will become very apparent.

We have the honor to be,

Your Lordship's obedient servants,

CHARLES DUFF,
CHARLES W. WELDON.

CATHOLIC "PARISH" SCHOOLS IN NEW BRUNSWICK.

New Brunswick is divided into two Catholic Dioceses: the Diocese of St. John and the Diocese of Chatham.

The Diocese of St. John comprises the City and County of St. John, King's and Queen's Counties, the Counties of Sunbury, York, Carleton, Charlotte, Albert and Westmoreland, and part of Kent; the Diocese of Chatham comprises the Counties of Victoria, Restigouche, Gloucester, Northumberland, and part of Kent.

DIOCESE OF ST. JOHN.

In the Diocese of St. John there were, on July 1st, 1867, and up to the time when the School Act of 1871 went into operation, as there had been for many years previously, one hundred and sixty schools established under the School Act of 1858, in which the teachers were Catholics, and in nearly all of which the pupils were also entirely Catholics, the great majority being Catholics in those in which the pupils were not exclusively Catholics. In these schools the Catholic Catechism was regularly taught, Catholic prayers were taught and were said every day, and Catholic books were used with the knowledge and approbation of the Trustees, elected by the people of the several parishes, of the Inspectors, appointed by the Board of Education to visit the schools periodically, and, in some instances, with the knowledge and approval of the Superintendent of Education who occasionally visited some of these Schools. In several cases also, the Returns made by the Teachers to the office of the Chief Superintendent showed that books manifestly Catholic, were used in these schools, and in no instance was any objection ever made to the use of such books, or to the teaching of the Catholic Catechism, or to the saying of Catholic prayers during school hours.

The following is a detailed account of the Catholic Parish Schools established under the law of 1858, which were in existence when the School Act of 1871 came into operation, and which existed for many years previously:—

CITY AND COUNTY OF ST. JOHN.

In the City of St. John	9	In Lancaster	8
" the Parish of Simonds	6	" St. Martins	2
" the Parish of Portland	6		

IN KING'S COUNTY..... 8

QUEEN'S COUNTY.

In Petersville	4	At Grand Lake	1
" Enniskillen	1		

IN SUNBURY COUNTY..... 2

YORK COUNTY.

In Fredericton	4	In other parts of the County	10

CARLETON COUNTY.

In Woodstock	4	In Northampton	1
" Richmond	6	" Canterbury	2
" Williamstown	2	" Johnville	3
" Simonds	1		

CHARLOTTE COUNTY.

In St. Stephens	3	In Bocabec	1
" St. Andrews	3	" St. George	4

IN ALBERT COUNTY..... 4

WESTMORELAND.

In Shediac—Barachois	8	In Dorchester	11
" Tidish	2	" Moncton	4
" Botsford	6	" Scoudac	3

PART OF KENT.

In Dundas	11	In Richibucto	4
" Wellington (Buctouche)	8	" Welsford	2
" St. Mary's "	5		

All these schools receive the Provincial allowance, according to the grade of the teachers, as fixed by the law of 1858, and in all of them Catholic doctrines were regularly taught, and Catholic devotions regularly practiced. Several of the schools were French, and in these the school books used were generally those approved of by the Quebec Board of Education, which are for the greater part essentially Catholic, and the books "Le Nouveau Traité du Devoir du Chrétien," "Doctrine Chrétienne," "Histoire Sainte," "L'Ancien et le Nouveau Testament," were in general use; in the schools in which the instruction was given in English, books of the same character were in use. The Priests of the districts frequently visited some of these schools and gave religious instructions in them.

In Carleton, St. John, two, and sometimes as many as four, licensed teachers were employed in the Catholic school. These received the usual Provincial allowance from the Board of Education as parish school teachers, duly employed. To this school the Provincial Legislature made also a grant of $240 a year for many years, to enable the managers to pay other teachers; and in the list of Legislative appropriations in the Journals of the House of Assembly it was always called the Roman Catholic School, Carleton.

The subjoined certificate from the gentlemen who acted as Trustees for the City of St. John under the old School Law, shows that in carrying out that law they always had regard to what they considered the legal rights of the several denominations under that law. They are all Protestants. Mr. Sears and Mr. Blatch were trustees for about twenty years, and Mr. Dole for at least thirteen years:

"Under the old School Law, the Trustees in St. John (Parish No. 1), always considered, in appointing Roman Catholic teachers to schools, that such schools were essentially denominational; and hence the Trustees, in making such appointments, always took into consideration the relative claims of the various denominations (viz:—Episcopal, Roman Catholic, Wesleyan, Presbyterian, and Baptist), in proportion to the whole number of Schools and the population, so as to apportion the number of teachers as fairly as possible among the denominations.

"(Signed) JOHN SEARS,
" GEORGE BLATCH,
" W. P. DOLE."

DIOCESE OF CHATHAM.

It has been found impossible to obtain complete returns from this Diocese. Those which have been received show that:—

In the County of Restigouche there were at least two schools, one in the Parish of Durham and one at Eel River, in which Catholic teachers taught Catholic devotions and Catholic prayers to Catholic pupils for a number of years.

GLOUCESTER COUNTY.

In the Parish of Beresford there were four Catholic parish schools, in which the pupils were regularly taught the Catholic Catechism and Catholic prayers, and in which Catholic books were used.

In the Parish of New Bandon there were three Catholic parish schools in which the Catholic Catechism was taught, and Catholic prayers were said, and Catholic books were used.

In the Parish of Caraquet there were eight Catholic parish schools in which the Catholic Catechism was taught, Catholic prayers were said every day, and such books as "Le Nouveau Traité du Devoir du Chrétien," "Doctrine Chrétienne," "Histoire Sainte," "L'Ancien et le Nouveau Testament," were used with the knowledge of the Trustees, and of the Inspector appointed by the Board of Education.

No returns have been received from the Parish of Bathurst or from the Parishes of Inkerman, Saumarez, and Shippegan, which are almost exclusively Catholic, and in which there were several Catholic schools.

VICTORIA COUNTY.

In the Parish of St. Basil there were five parish schools in which the teachers and pupils were Catholics, and in which the Catholic Catechism was taught, Catholic prayers were regularly said, and Catholic books were used. In Madawaska there were six parish schools of the same character, and at Grand Falls there were two.

KENT COUNTY.

In the Parish of St. Louis, which belongs to the Diocese of Chatham, at least eight Catholic parish schools existed for many years before the passing of the late Act. These schools were regularly opened and closed with prayers, the Catholic Catechism was regularly taught in them, and the books used were Catholic, including the "Nouveau Traité du Devoir du Chrétien," and "La Bible Illustrée." They were visited regularly by the Government Inspector; and in the returns sent to the Chief Superintendent of Education the names of the books used were given.

NORTHUMBERLAND COUNTY.

The returns from this County are incomplete. In the Parish of Blackville there were three Catholic parish schools in which the Catholic Catechism was taught, Catholic prayers were regularly said, and Catholic books were used.

In Douglastown four Catholic parish schools were taught for several years. In these teachers and nearly all the children were Catholic. The Catholic Catechism was taught, Catholic prayers were said and Catholic books were used. The teachers were examined by the Board of Education, and received the regular Provincial allowance.

The following certificate from the gentlemen who acted as Trustees of the schools in the Town and Parish of Chatham for a number of years, shows that, as in the City of St. John, the right of the several denominations to establish, under the law of 1858, schools in which denominational and religious instruction would be given, was practically recognized. These gentlemen, except Mr. Lawlor, are all Protestants.

"We, the undersigned, who have for several years fulfilled the office of Trustees of schools in the Parish of Chatham, County of Northumberland, under the School Law of 1858, certify that of the various schools in operation in this Parish during the existence of said law (from 1858 to 1871), several were known to be professedly and in practice, '*Denominational Schools;*' that is, under the patronage of one or other of the different religious denominations of Christians. In these schools besides the secular and moral education required by law, the peculiar religious instruction (by catechism, prayers, hymns, &c.,) according to the tenets and usages of their respective churches, was known to be imparted in their regular daily exercise.

"The schools under the patronage of Roman Catholics, kept in school-houses belonging to that body, attended by pupils almost exclusively Catholic, numbering from 250 to 300, and conducted by licensed teachers of the same creed:—namely, Annie Quinlan, Sarah Wynn and Bridget Flannagan, during all the above mentioned time—and Mary Harrington and Margaret McCarthy for a shorter period—and Thomas Caul-

field and other Teachers of St. Michael's Male Academy, from 1861 to 1871 inclusively, were all conducted under the then existing law, by the above-named licensed Teachers and were regularly visited by the Inspectors, Woods, Morrison, &c., and Chief Superintendent Bennet and other officials, and received their regular portion of Government allowance from the Provincial School Fund, through the Board of Education.

"(Signed) THOS. F. GILLESPIE, M.P.P., WM. LAWLOR,
J. C. GOUGH, M.P.P., W. WILKINSON,
JAS. J. PIERCE, R. CARMAN."

In the Diocese of Chatham the total number of Catholic schools must have been at least one hundred. In all of these the education was in every respect thoroughly Catholic; and they were recognized by the Board of Education—composed of the members of the Provincial Council and the Chief Superintendent of Education—as Catholic schools, to all intents and purposes. So much was this the case, that, in April, 1871, when Turgeon was appointed Principal of the Superior Schools in the Parish of Beresford, and the Inspector, Mr. Morrison, employed as his Assistant, a Protestant Teacher, on Mr. Turgeon remonstrating with the Inspector and satisfying him that the Assistant should be a Catholic, who could properly give religious instructions to the Catholic pupils, Mr. Morrison immediately cancelled the agreement he had made with the Protestant teacher, and a Catholic assistant was employed. In some instances a few Protestant children attended the school—as in Caraquet, where there were eight schools, five or six Protestant children attended—but this did not in any way alter the character of the schools. The conscientious rights of those Protestant children were sacredly regarded, as the laws of 1858 prescribed, but the Catholic children received religious instruction and said their prayers precisely as if no Protestant children were at the schools. The teachers were duly licensed and received the Provincial allowance fixed by law, and the schools were what the law called Parish Schools, and belonged to the regular Provincial School Establishment; but they were not in any sense Separate, as are the Catholic schools of Ontario, or Dissentient, as are the Protestant schools of Quebec; they were thoroughly and unquestionably Denominational Schools.

Under Secretary of State to Bishop Sweeney.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 28th January, 1873.

MY LORD,—I am directed to acknowledge the receipt of your Lordship's letter of the 18th instant, forwarding therein printed papers containing the opinions of Charles Duff and C. W. Weldon, Esquires, regarding the School Law of New Brunswick, lately passed by the Local Legislature, &c., &c., and to inform Your Lordship that the same have been referred to the Privy Council for consideration.

I have, &c.,

(Signed) E. PARENT,
Under Secretary of State.

The Right Reverend JOHN SWEENY, D D.,
Bishop of St. John, New Brunswick.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th January, 1873.

The undersigned to whom was referred the letter of the Right Reverend Roman Catholic Bishop of St. John New Brunswick, on the subject of the late new School Law of New Brunswick, has the honor to recommend, that a copy of such letter, with the documents annexed thereto, be transmitted by Your Excellency to the Right Hon. the Secretary of State for the Colonies, to be placed with the papers heretofore transmitted on the same subject, and to be taken into consideration at the same time.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th January,* 1873.

On a letter, dated 18th January, 1873, from His Lordship the Right Reverend the R. C. Bishop of St. John, N.B., enclosing printed papers, one of them containing the opinions of two legal gentlemen, Messrs. Duff and Weldon, regarding the late School Law of New Brunswick, in order that the same may be transmitted to England; and requesting to be informed, if possible, of the time when this question, so important to the Catholics of New Brunswick, will be brought before the Judicial Committee of Her Majesty's Privy Council, in order that they may have an opportunity of employing Counsel in England to represent them.

The Honorable the Minister of Justice, to whom the above letter has been referred, recommends that a copy of such letter, with the documents annexed thereto, be transmitted by Your Excellency to the Right Honorable the Secretary of State for the Colonies, to be placed with the papers heretofore transmitted on the same subject, and to be taken into consideration at the same time.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Parent to Bishop Sweeny.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 4th February, 1873.

MY LORD,—I am directed to inform Your Lordship that your letter of the 18th January last, enclosing printed papers, one of them containing the opinion of two legal gentlemen, Messrs. Duff & Weldon, regarding the late School Law of New Brunswick, in order that the same may be transmitted to England, and requesting to be informed, if possible, of the time when this question, so important to the Catholics of New Brunswick, will be brought before the Judicial Committee of Her Majesty's Privy Council, in order that they may have an opportunity of employing Counsel in England to represent them, having been referred to His Excellency the Governor General in Council, an Order in Council has been passed, directing that a copy of Your Lordship's said letter with the documents annexed thereto, be transmitted by His Excellency to the Right Honorable the Secretary of State for the Colonies, to be

placed with the papers heretofore transmitted on the same subject, and to be taken into consideration at the same time.

I have, &c.,

E. PARENT,
Under Secretary of State.

The Right Reverend JOHN SWEENY, D.D.,
Bishop of St. John, St. John, New Brunswick.

The Law Officers of the Crown to the Earl of Kimberley.

TEMPLE, 29th November, 1872.

MY LORD,—We are honored with Your Lordship's commands, signified in Mr. Holland's letter of the 25th November, instant, stating that he was directed by your Lordship to transmit to us a copy of a Despatch from the Governor General of Canada, with enclosures relating to an Act passed by the Provincial Legislature of New Brunswick, in May, 1871, relating to Common Schools, and to request that we would take the papers into our consideration, and favor, our Lordship with our opinion thereon.

No. 85, Nov. 6th, '72.

In obedience to your Lordship's commands we have the honor to report :—

That we agree substantially with the opinion expressed by the Minister of Justice of the Dominion. So far as appears from the papers before us, whatever may have been the practical working of annual Education Grants in the Province of New Brunswick, the Roman Catholics of that Province had no such rights, privileges, or schools as are the subjects of enactment in the British North America Act, 1867, Section 93, Sub-section, *et seqr.*

It is, of course, quite possible that the new Statute of the Province may work in practice unfavorably to this or that denomination therein, and therefore to the Roman Catholics, but we do not think that such a state of things is enough to bring into operation the restraining powers, or the powers of appeal to the Governor General in Council, and the powers of remedial Legislation in the Parliament of the Dominion, contained in the 93rd Section. We agree, therefore, in the practical conclusion arrived at by Sir John A. Macdonald.

We have, &c.,

(Signed) J. D. COLERIDGE,
G. JESSEL.

The Right Honorable
The Earl of Kimberley, &c., &c., &c.

Mr. Reeve to Mr. Holland.

PRIVY COUNCIL OFFICE, 13th December, 1872.

SIR,—I have submitted to the Lord President of the Council your letter of the 9th inst., transmitting a copy of a Despatch from the Governor General of Canada with enclosures, respecting an Act passed by the Provincial Legislature of New Brunswick, with reference to Common Schools, and requesting to know whether the opinion of the Lords of the Judicial Committee of the Privy Council on this question can properly be obtained.

It appears to His Lordship that as the power of confirming or disallowing Provincial Acts is vested by the Statute in the Governor General of the Dominion of Canada, acting under the advise of his constitutional Advisers, there is nothing in this case which gives to Her Majesty in Council any jurisdiction over this question; though it is conceivable that the effect and validity of this Act may at some future time be brought before Her Majesty, on an appeal from the Canadian Courts of Justice.

This being the fact, His Lordship is of opinion that Her Majesty cannot, with propriety, be advised to refer to a Committee of Council in England, a question which Her Majesty in Council has at present no authority to determine, and on which the opinion of the Privy Council would not be binding on the parties in the Dominion of Canada.

I have, &c.,

(Signed) HENRY REEVE,
Reg. P. C.

HENRY T. HOLLAND, Esq., &c., &c., &c.

The Law Officers to Lord Kimberley.

TEMPLE, 12th February, 1873.

MY LORD,—We are honored with our Lordship's commands, signified in Mr. Holland's letter of the 11th inst., stating, that with reference to the Report furnished by us on the 29th November, respecting an Act passed by the Legislature of New Brunswick, in May, 1871, relating to Common Schools, he was directed by your Lordship to transmit to us a copy of a further Despatch from the Governor General of Canada, forwarding a memorandum of the Executive Council of New Brunswick on the Resolution by the House of Commons of the Dominion, on the 30th May last.

And that he was to request us to take the documents into consideration, and inform your Lordship whether we saw any reason to change the opinion expressed in our Report of the 29th November.

In obedience to Your Lordship's commands we have the honor to report, that we see no reason to alter or modify the opinion which we have already submitted to Your Lordship on this subject.

We have, &c.,

(Signed) J. D. COLERIDGE.
" G. JESSEL.

The Right Honorable
The Earl of Kimberley.

The Secretary of State for the Colonies to the Governor General.

(Canada, No. 47.)

DOWNING STREET, 18th February, 1873.

MY LORD,—I referred to the Law Officers of the Crown, and to the Privy Council Office, your Despatches, No. 85, of the 6th of November, 1872; and No. 7, of the 13th of January last, together with the papers which accompanied them, relating to the Act passed by the Provincial Legislature of New Brunswick, in May, 1871,

relating to Common Schools. I transmit to you for your information, and for that of your Government, copies of the opinions which have been given by the Law Officers on this case; and also, copy of a letter from the Privy Council Office on the subject.

L. O., 29th Nov, 1872.
Law Officers, 12th Feb., 1873.
Council Office, 13th Dec., 1872.

From the letter you will learn that the case is not one which can be properly submitted to the Judicial Committee of the Privy Council.

I have, &c.,

(Signed) KIMBERLEY.

Governor General,
The Right Honorable
The Earl of Dufferin, K. P., K.C.B., &c., &c., &c.

The Secretary of State for the Colonies to the Governor General.

(Canada—No. 54.)

DOWNING STREET, 20th February, 1873.

MY LORD,—I have the honor to acknowledge the receipt of your Lordship's Despatch, No. 35, of the 1st February, enclosing copy of a further Report of a Committee of the Canadian Privy Council, and of a letter with printed papers from the Roman Catholic Bishop of St. John, relating to the New Brunswick School Act.

In my Despatch, No. 47, on the 18th inst., I have forwarded to you copies of the opinions of the Law Officers of the Crown in reference to this case; as the Law Officers have had this subject twice under their consideration, and as the matter is not one which can properly be referred to the Judicial Committee of the Privy Council, I do not propose to submit to the Law Officers the papers enclosed in your Despatch now under acknowledgment, unless it is desired by the Canadian Government.

I have, &c.,

(Signed) KIMBERLEY.

Governor General,
The Right Honorable
The Earl of Dufferin, K.P., K.C.B.

The Governor General to the Secretary of State for the Colonies.

(Canada—No. 72.)

GOVERNMENT HOUSE, OTTAWA, 13th March, 1873.

MY LORD,—I have the honor to acknowledge the receipt of your Despatch, No. 54, of the 20th February, and to transmit herewith a copy of a Report of Council, requesting that, as the opinion of Her Majesty's Attorney and Solicitor General on the legality of the Act of the Legislature of New Brunswick, relating to Common Schools, was given before the arrival in England of the letter and accompanying documents from the Roman Catholic Bishop, enclosed in my

13th March.

Despatch, No. 35, of the 10th February, the case may be again considered and reported on by the Law Officers.

I have, &c.,

(Signed) DUFFERIN.

The Right Honorable
The Earl of Kimberley,

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th March, 1873.

The undersigned, to whom was referred the Despatch of the Right Honorable the Secretary of State for the Colonies of the 20th February last, begs leave to report:—

That it appears from this and from previous Despatches that the Resolution adopted by the House of Commons of Canada at its last Session, asking for the opinion of the Law Officers of the Crown in England as to the competence of the Legislature of New Brunswick to pass the Common School Act of New Brunswick of 1871, together with the Minute of the Executive Council of New Brunswick, was submitted by Her Majesty's Government to the Attorney and Solicitor General of England.

On this reference the Law Officers have given their opinion that the Provincial Legislature was competent to pass the Act in question.

This opinion was given before the arrival in England of the letter and accompanying documents transmitted by the Roman Catholic Bishop of St. John, relating to the New Brunswick Act.

It is to be regretted that the delay in the preparation of the Memorandum by the Bishop prevented his letter being before the Law Officers at the time they had the question under consideration.

As the Right Reverend Prelate, however, speaks on behalf of the Roman Catholic people who complain of the Act in question, and dispute its validity, it seems to the undersigned advisable that the Attorney and Solicitor General should be requested to reconsider the whole case, after having before them all the papers transmitted by Your Excellency on the three several occasions, viz:—The Resolution of the House of Commons; the Memorandum of the Executive Council of New Brunswick, and the letter and papers transmitted by the Bishop of St. John. Without such reconsideration, the Roman Catholic body might feel that the opinion had been given, without their case being submitted or considered, and it would not therefore have the weight with them that is desirable.

(Signed) JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 13*th March*, 1873.

The Committee of Council have had under consideration the Despatch from the Right Hon. H. M. Secretary of State for the Colonies, No. 54, dated 20th February, 1873, relating to the Act passed by the Provincial Legislature of New Brunswick, in May, 1871, relating to Common Schools.

The Hon. the Minister of Justice, to whom the above Despatch and its enclosures were referred, reports, that it appears from this, and from previous Despatches, that the Resolution adopted by the House of Commons of Canada, at its last Session, asking for the opinion of the Law Officers of the Crown in England, as to the competence of the Legislature of New Brunswick to pass the Common School Act of

New Brunswick, of 1871, together with the Minute of the Executive Council of New Brunswick, was submitted by Her Majesty's Government to the Attorney and Solicitor General of England.

That on this reference the Law Officers have given their opinion that the Provincial Legislature was competent to pass the Act in question.

That this opinion was given before the arrival in England of the letter and accompanying documents transmitted by the Roman Catholic Bishop of St. John, relating to the New Brunswick Act.

That it is to be regretted that the delay in the preparation of the Memorandum by the Bishop prevented his letter being before the Law Officers at the time they had the question under consideration.

That as the Right Reverend Prelate, however, speaks on behalf of the Roman Catholic people who complain of the Act in question, and dispute its validity, it seems to him, the Minister of Justice, advisable that the Attorney and Solicitor General should be requested to reconsider the whole case, after having before them all the papers transmitted by Your Excellency on the three several occasions, viz :— The Resolution of the House of Commons; the Memorandum of the Executive Council of New Brunswick; and the letter and papers transmitted by the Bishop of St. John.

That without such reconsideration, the Roman Catholic body might feel that the opinion had been given, without their case being submitted or considered, and it would not therefore have the weight with them that is desirable.

The Committee concur in the foregoing Report, and advise that a copy of this Minute be transmitted by Your Excellency to the Earl of Kimberley.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Under Secretary of State for Provinces to Under Secretary of State.

OTTAWA, 15th March, 1873.

SIR,—In compliance with your order of reference of this date, I have the honor to transmit to you, herewith, a copy of the Judgment of the Supreme Court of the Province of New Brunswick, upon the question of the constitutionality of "Common Schools Act, 1871" in the case of Auguste Renaud and others, called for by the House of Commons in their Address of the 14th inst.

The enclosed document was received this day from the Lieutenant-Governor of New Brunswick, in a covering Despatch, dated the 10th inst.

I have, &c.,

E. A. MEREDITH,
Under Secretary of State for the Provinces.

E. PARENT, Esq.
Under Secretary of State for Canada.

JUDGMENT of the Supreme Court of New Brunswick upon the question of the constitutionality of "The Common Schools Act, 1871," delivered in Hilary Term, 12th February, 1873, in the case of Auguste Renaud and others. (*ex parte.*)
For Report of this case, *see* New Brunswick Reports, Vol. XIV, pp. 273-300.

MESSAGE.

DUFFERIN.

The Governor General transmits, for the information of the House of Commons, Copy of a Despatch, dated 10th April, 1873, from Her Majesty's Secretary of State for the Colonies, enclosing a further Report from the Law Officers of the Crown on the subject of the New Brunswick School Law.

GOVERNMENT HOUSE,
OTTAWA, 5th May, 1873.

The Secretary of State for the Colonies to the Governor General.

(Canada—No. 112.)

DOWNING STREET, 10th April, 1873.

MY LORD,—With reference to your Lordship's Despatch, No. 72, of the 13th March, and to previous correspondence, I have the honor to transmit to you here, with a copy of a further opinion of the Law Officers of the Crown on the subject of the Act passed by the Legislature of New Brunswick, in 1871, relating to Common Schools.

April 7, 1873.

I have, &c.,

(Signed) KIMBERLEY.

Governor General,
The Right Honorable
The Earl of Dufferin, &c., &c., &c.

The Law Officers to Lord Kimberley.

TEMPLE, 7th April, 1873.

MY LORD,—We are honored with Your Lordship's commands, signified in Mr. Herbert's letter of the 31st March ultimo, stating that he was directed by Your Lordship to transmit to us copies of two Despatches from the Governor General of Canada, with their enclosures, relating to the Act of the Provincial Legislature of New Brunswick, passed in May, 1871, relating to Common Schools; and that he was desired to refer us to the opinions given by us in reference to that Act, dated the 29th of November, and 12th of February last.

35—1st Feb., 1873.
72—13st March, '73

Mr. Herbert was pleased further to say, that he was to request that we would take those further papers into consideration, and favor Your Lordship with our opinion upon them, and that he enclosed copies of the papers on which our previous opinions were given.

To Atty. and Sol. Genl, 35 Nov., 1872.
To Atty. and Sol. Genl, 11th Feby., 1873.

In obedience to Your Lordship's commands, we have the honor to Report:—That we have reconsidered this case with special reference to the further papers now sent, and we see no reason to alter or modify the opinion which we have already submitted to Your Lordship on the subject.

We have, &c.,

(Signed) J. D. COLERIDGE,
" G. JESSEL.

The Right Honorable
The Earl of Kimberley, K.G., &c., &c., &c.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 24th February, 1874.

SIR,—I have the honor to enclose a copy of a Resolution passed by the House of Assembly, on the 23rd inst., and to request that the same may be submitted for the consideration of His Excellency the Governor General without delay.

I have, &c.,

(Signed) S. L. TILLEY.
Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

HOUSE OF ASSEMBLY, 23rd February, 1874.

Whereas, it has been stated that a Despatch has been received by His Excellency the Governor General, from the Right Honorable the Secretary of State for the Colonies, in reply to the Resolution adopted by the House of Commons some time in the month of May last, asking His Excellency to disallow certain Acts passed by this Legislature, or in reply to the Despatch of His Excellency to the Right Honorable the Secretary of State for the Colonies on the subject of the said Resolution;

And, whereas, it is very desirable that the Legislature should be informed of the opinions of the Imperial Government, as to the exercise by His Excellency of the power of disallowing Acts passed by the Legislature: Therefore, Resolved, That an humble Address be presented to His Honor the Lieutenant-Governor, praying that he will communicate with His Excellency the Governor General, and request that he will be pleased to cause a copy of all Despatches from His Excellency the Governor General to the Right Honorable the Secretary of State for the Colonies to His Excellency the Governor General * on the subject of, or referring to, the said Resolution of the House of Commons, to be transmitted to His Honor the Lieutenant-Governor, to be laid before the Legislature during the present Session.

(Signed) GEORGE BLISS,
Clerk.

Governor General's Secretary to Secretary of State.

OTTAWA, 10th March, 1874.

SIR,—In compliance with the request contained in your reference of the 4th instant on a Despatch from the Lieutenant-Governor of New Brunswick (herewith returned), in which application is made for copies of correspondence relating to certain Acts of the New Brunswick Legislature, I have the honor to transmit a copy of a Despatch addressed by His Excellency the Governor General to the Secretary of State for the Colonies, dated 27th May, 1873, and a copy of Lord Kimberley's reply.

The Earl of Dufferin. No. 137, 27 May, 1873.

Earl of Kimberley No. 199, 30 June, 1873.

I have, &c.,

(Signed) H. C. FLETCHER.
Governor General's Secretary.

The Honorable R. W. SCOTT,
Secretary of State, Ottawa.

---

* *Sic* in original.

The Governor General to the Secretary of State for the Colonies.

GOVERNMENT HOUSE, OTTAWA, CANADA, 27th May, 1873.

MY LORD,—I have the honor to enclose copy of a Resolution, carried in the House of Commons on the 14th of May, by a majority of thirty-five against the Government, urging the disallowance by the Governor General of certain Acts passed by the New Brunswick Legislature, with a view of legalizing a series of assessments, made under the Common School Act of 1871, and in amendment of that Act.

May 14th, 1874.

Memo. by Sir John Macdonald.

2. I also beg to enclose copies of the Acts referred to, and I further forward for Your Lordship's information, the substance of the announcement made to the House of Commons on my behalf by Sir John Macdonald, in reference to the above-mentioned Resolution.

Copies of Acts.

3. From these documents, Your Lordship will perceive that the majority of the House of Commons being strongly opposed to the severity with which the secular system of education, established under the Common School Act of 1871, is being applied in New Brunswick, and of which the Roman Catholic population vehemently complain, have endeavored to paralyze the Act by an indirect attack upon the subsidiary machinery necessary to its operation, and that they have sought to obtain this end through a Resolution of the House of Commons in favor of the disallowance by the Crown, of certain assessment Acts passed by the Local Legislature for the material maintenance of the common schools.

4. I have already been instructed by Your Lordship, in your Despatches noted in the margin, that in the opinion of the Law Officers of the Crown, the New Brunswick School Act of 1871 was within the competence of the Provincial Legislature, and I am further advised by the Honorable the Minister of Justice that the present Acts are equally within its competence.

No. 47, Feb. 18.
" 54, " 20.
" 112, Apr. 10.

5. Under these circumstances, Sir John Macdonald has announced to the House of Commons that I am not at present prepared to comply with the terms of the Resolution which has been passed in favor of the disallowance of these Acts, but that it is my intention to submit the circumstances of the case for the consideration of Her Majesty's Government, and to await your further instructions.

6. In taking this step, I have followed the course which has been recommended to me by my responsible Advisers.

7. I have further to inform Your Lordship that Parliament has voted, at the instance of my Government, a considerable sum of money for the purpose of defraying the legal expenses of those who propose raising the question of the legality of the provisions of the New Brunswick School Act before the Judicial Committee of Her Majesty's Privy Council.

8. I have also the honor to subjoin copy of a Remonstrance which has been addressed to me by a delegation from the Government of New Brunswick, consisting of the Chief of the Executive Council and some of his colleagues, against the interference of the Dominion Parliament with the constitutional action of the Provincial Legislature.

May 19, 1873.

I have, &c.,

(Signed) DUFFERIN.

The Right Hon.

The Secretary of State for the Colonies.

The Executive Council of New Brunswick to Governor General.

OTTAWA, 19th May, 1873.

MAY IT PLEASE YOUR EXCELLENCY,—As members of the Executive Council of New Brunswick at present in Ottawa, we beg to approach Your Excellency upon a subject of the highest concern to the people of the Province of New Brunswick.

To our very great surprise a Resolution, moved in the House of Commons by Mr. Costigan, declaring *inter alia*, that it was the duty of the Government to advise Your Excellency to disallow several Acts passed during the last Session of the New Brunswick Legislature, was carried.

The right of the House of Commons to pass a Resolution affecting the prospective exercise of the prerogative we do not propose to discuss, but we may remark that if such a right exists or can be exercised by the popular branch, it could only so exist or be exercised in matters over which the Parliament of Canada has the power of legislation.

The right of disallowance of Acts passed by any of the Local Legislatures, is a statutory as well as a constitutional power, vested in Your Excellency by the British North America Act, and for the exercise of which there is no responsibility to the Parliament of Canada.

By the British North America Act, the Local Legislatures have exclusive powers of legislation in reference to certain specified matters, and so long as any Legislature acts strictly within the prescribed limits, its legislation ought to stand, unless contrary to any Royal Instructions in that behalf.

The entire freedom of the Executive Authority, in dealing with matters expressly reserved to the Provincial Legislatures, is essential to the harmonious working and even to the continuance of the Federal Union. If the House of Commons can successfully control, by antecedent determination, the exercise of the Executive Authority, in respect of matters over which the House has not even any powers of legislation, it is clear that the rights and privileges of the Provincial Legislatures are only held and exercised by the sufferance of one branch of the Parliament of Canada.

It is conceivable that the House of Commons might lay down a series of Instructions to the Crown, in the exercise of its prerogative and statutory powers, covering the whole ground of local Legislation, under which no Legislation would be possible, except in accordance with such Instructions.

The House of Commons, in asking that Your Excellency be advised to disallow a particular Act, virtually take to themselves the power of determining what Acts of the Provincial Legislatures shall be allowed; in short, they would thus make the legislation of all the Local Parliaments subservient to the opinions of a majority of their body.

The establishment of such a principle would be wholly destructive of the Federal character of the Union, and would entirely destroy the independence of the Local Legislatures.

Feeling strongly that the maintenance of such independent right of legislation as is secured to the Local Legislatures, should be upheld at all hazards as the only safeguard of the Constitution, and considering that any aggressive act of the Federal power should be met at threshold, we deem it our duty, on behalf of our Province, to remonstrate against the recent action of the House of Commons on Mr. Costigan's Resolution.

The character of the legislation ought not to be an element in determining the right, still we beg to call Your Excellency's attention to the legislation which the House of Commons has declared it to be the duty of the Government to advise Your Excellency to disallow.

In 1871, the Legislature of New Brunswick passed an Act relating to the Common Schools of the Province, which came into operation on the 1st of January, 1872, and by which all the existing legislation relating to such schools was repealed.

The constitutionality of this Act was questioned, and although the Right Honorable the Minister of Justice gave it as his opinion that it was within the power of the

Local Legislature to pass such law, the opponents of the Act brought the matter before the Parliament of Canada, at its last Session, and a Resolution was passed, whereby it was sought to obtain the opinion of the Law Officers of the Crown in England, and, if possible, of the Judicial Committee of the Privy Council, as to the constitutionality of such an Act.

The opinion of the Law Officers of the Crown was obtained and twice repeated, but the Lord President of the Privy Council declined to entertain the matter unless on appeal from the Courts of New Brunswick.

The Crown Officers sustained the opinion of the Right Honorable the Minister of Justice, and also gave it as their opinion that the Parliament of Canada had no power of remedial legislation under the 4th Sub-section of Section 93 of the British North America Act.

We have already stated that the Common Schools Act came into operation on the 1st January, 1872, and in the course of its administration, assessments were levied in the greater part of the Province, for the sustaining of the schools established under the Act.

The opponents of the law also tested the constitutionality of the Act in the Courts of the Province, by moving to quash the assessments in some fifteen to twenty different localities, including the populous towns and districts, such as St. John, Portland, Fredericton, Woodstock and St. Stephen.

The rates for General, County and Parish purposes were assessed and levied under General Assessment Acts, and a portion of the School rate for a county school fund was directed to be assessed and levied along with, and at the same time as these municipal rates; one roll was therefore made out, which contained all the rates and any technical objection, which would be available as regards the Municipal rate, would be equally so against the school rate, and *vice versa*, so that all the rates must stand or fall together; and thus parties opposed to the School Law had open to them not only the alleged unconstitutionality of the School Act, but also all technical objections, arising out of the defective administration of the Acts relating to the assessing of Municipal rates.

The Supreme Court, by unanimous judgment, held the Act to be strictly within the power of the Local Legislature, thus affirming its constitutionality; and they further held that the Parliament of Canada possessed no power of remedial legislation; but, in the matter of nine of these assessments, they granted *certioraris* upon various technical grounds, with a view to the ultimate quashing of the rates.

This judgment was delivered in February last, and the opponents of the law at once applied to the Supreme Court for leave to appeal therefrom to the Judicial Committee of the Privy Council, which leave was granted, the terms of the appeal to be settled by the Chief Justice.

No further steps were taken by the appellants, although their Counsel was more than once informed, on behalf of the Government, that Counsel on their behalf was ready to attend and perfect the appeal; and at length the Government were given to understand that the appeal would not be prosecuted.

Such was the state of the matter when the Acts legalizing the assessments now sought to be disallowed, were passed by the Legislature.

We may here observe that, in a House of forty-one members, the Bills were carried by large majorities, the minority vote ranging only from seven to nine, while several members in opposition to the law voted in the majority, believing the legislation to be absolutely necessary in the municipal interest of the localities.

The technical objections which had been raised as to seven of the assessments, had no reference to the administration of the School Act, but solely related to non-compliance with the provisions of the general assessment law, and in only two of the cases, the City of St. John and Town of Portland assessments, were the technical objections sustained in reference to the administration of the School Act.

In the City of St. John, by the Common Schools Act, the Trustees were required to lay before the Common Council, on or before the 1st of April, which was the time of ordering other City rates, an estimate of the amount required for school purposes,

and such amount was to be assessed with and levied at the same time as other city rates. The trustees, however, by some oversight, did not hand in their estimates till the third week in April, but these rates were in fact assessed and levied at the same time as the other City rates, and it was therefore considered that the spirit of the law, which was that the school rates should be assessed and levied at the same time with the other rates, had been complied with.

In Portland, a sum of $150 for interest on debentures had been included in the school rate, but although the Trustees had entered into an engagement for the purchase of land on which to erect school buildings, and although within a few days after they handed in their estimate, they would require to issue these debentures; yet, inasmuch as the School Act used the term "interest on debentures issued," the Courts held that no interest could be levied except on such debentures as had been actually issued before the estimate was made up. As the debentures were in fact issued a few days afterwards, and as this sum would be actually required to meet the two half-yearly payments of interest which would be due before the next year's assessment could be collected, the Act to legalize the assessment was passed.

The technical grounds in the other seven cases, which related to the non-compliance with certain provisions of the general assessment law were but trifling, and one or two instances will suffice for all.

In the Richibucto-Kent case, while the warrant of assessment contained the several sums ordered to be assessed for each particular service, the roll contained only the total amount payable by each rate-payer without setting forth the sum for each service, which latter the Court held to be the correct mode. The general Assessment Act, which for the first time had received this construction, had always been acted upon in Kent, as well as in many other counties, by giving only the total amount of assessment on each rate-payer. Since the decision of the Supreme Court, the general assessment law has been amended, and were the amount to be re-assessed the roll would be made up in precisely the same way as the defective assessment was made up. The Act legalizing the Richibucto assessment, also provides for the collection of the rates in the other parishes of the county. This was rendered necessary by the reason of the time for the collection of the rates having expired in consequence of the stay of proceedings granted by the Court, the assessments themselves having been upheld.

In Fredericton, one-eighth of the assessable amount ought to have been levied by a poll-tax, but, for upwards of twenty years, a fixed sum of eighty cents had been levied for that purpose; whereas, it should have been about three dollars, and as the sum of eighty cents had been paid for the period named without question, the assessment was legalized.

Of the two Queen's County cases, the Wickham assessment was adjudged defective by reason of the General Sessions of the Peace having included in the warrant for assessment a sum of $20 to reimburse the Commissioners of Highways for costs incurred in a prosecution for breach of the Highway Acts; and the Petersville assessment, by reason of the assessors of rates having made an error of four cents in calculating the amount of the poll-tax.

We do not think it necessary to refer to any more of the cases, as those mentioned sufficiently indicate the general nature of the objections which were taken, and which by the Acts in question were not further made tenable, as grounds for finally quashing the assessments.

The Act in amendment to the Common School Act, which it is also asked shall be disallowed, contains provisions as to matters of detail, found to be essential to the proper and efficient carrying out of the intention of the original Act in providing free Common Schools for the youth of New Brunswick, and as the original Act has been declared by the highest tribunal in the Province to be strictly constitutional, it was, and is, within the province of the Legislature to enact subsequent provisions, found necessary to ensure its efficient working.

The presumptions thus far being all in favor of the constitutionality of the original Act, Your Excellency ought not to be called upon to disallow the Acts in

question, pending an appeal to the Judicial Committee of the Privy Council, for no such appeal is now pending, nor is there any guarantee that any appeal will be prosecuted, the House of Commons having no power to compel the protesting parties to prosecute an appeal; and even if an appeal were pending, it would not afford any ground for the disallowance of the Acts, for if the original Act be unconstitutional, all legislation dependent upon, and in amendment of it, must fall also, and it is now quite open to the parties, from whom rates may be sought to be collected under these Acts, or against whom any provisions are sought to be enforced, to resort to the Courts, and there raise the question that this subsequent legislation can be of no avail, being in aid of an Act which, as they allege, is unconstitutional.

This is the correct course for the objectors to take; for, by seeking a disallowance of these Acts, Your Excellency is asked to assume quasi-judicial powers, and in effect to declare that the Common Schools Act is unconstitutional; in other words, Your Excellency is besought to assume a power which, in the present state of the matter belongs solely to the Judicial Committee of the Privy Council.

Again, should the Judicial Committee declare the Act to be beyond the power of the Local Legislature, no great inconvenience can follow to the parties who may have paid their rates, for these moneys can all be recovered back from the different municipalities and public authorities who may have ordered the assessments and received the funds; while, on the other hand, were the Acts disallowed, the public inconvenience would be very great indeed, inasmuch as the assessments, as already stated, concern the rates and taxes for county, city and parish purposes, as well as the county school rate (which is but a small rate in comparison), and were these not collectable the debenture holders and other creditors of the various localities in which these assessments are ordered to be levied, would be greatly delayed in the payment of interest and other moneys due them, quite outside of and beyond the school rate, and the public credit of these localities would be seriously impaired.

Neither then on principle, nor on the ground of convenience, ought these Acts, to be disallowed.

We beg to add that we are quite sure that the remonstrance which we have felt called upon to make against the action of the House of Commons, will meet with the concurrence of our colleagues in the Government of the Province, and regretting that we have felt ourselves compelled to set forth at such length our views and the facts

We have, &c.,

(Signed) R. YOUNG,
" JNO. JAS. FRASER,
" GEO. E. KING.

His Excellency
The Governor General,
&c., &c., &c.

Substance of announcement made in House of Commons by Sir John Macdonald, on behalf of Governor General.

The Resolution adopted by the House on the 14th May, was duly laid before His Excellency the Governor General; and I have it in command to state, that he is asked by one branch of the Parliament of Canada to exercise the Royal prerogative by disallowing certain Acts of the New Brunswick Legislature. It is stated that these Acts were passed for the purpose of legalizing certain assessments made under the Common School Act of 1871, and in amendment of such Act, the object sought in getting these Acts disallowed is to give the parties complaining of the School Act, an opportunity of bringing such Act judicially before Her Majesty's Privy Council.

Now His Excellency has been already instructed by Her Majesty's Government, in the opinion of the Law Officers of the Crown in England, that the Act in question was within the competence and jurisdiction of the New Brunswick Legislature. Such being the case, His Excellency deems it his duty to apply to Her Majesty's Government for further instructions in the matter.

I further desire to state that, considering the gravity of the question and the number of Her Majesty's subjects complaining of the School Act, the Government will be prepared to ask Parliament for a vote of money to defray all expenses of the appeal.

The Secretary of State for the Colonies to the Governor General.

DOWNING STREET, 30th June, 1873.

MY LORD,—I referred to the Law Officers of the Crown Your Lordship's Despatch, with its enclosures, of the 27th of May, No. 137, in which you requested instructions as to the course you should take with regard to the Resolution of the Canadian House of Commons, urging the disallowance of certain Acts passed by the New Brunswick Legislature, with the view of legalizing a series of assessments made under the Common Schools Act of 1871, and, in amendment of that Act, I am advised:—

1. That these Acts of the New Brunswick Legislature are, like the Acts of 1871, within the powers of that Legislature.

2. That the Canadian House of Commons, cannot constitutionally interfere with their operation by passing a Resolution, such as that of the 14th of May last. If such a Resolution were allowed to have effect, it would amount to a virtual repeal of the section of the British North America Act, 1867, which gives the exclusive right of legislation in these matters to the Provincial Legislatures.

3. That this is a matter in which you must act on your own individual discretion, and on which you cannot be guided by the advice of your responsible Ministers of the Dominion.

4. That these Acts of the New Brunswick Legislature being merely Acts for better carrying out the Act of 1871, and for getting rid of technical objections to the assessments thereunder, it would be in accordance with the Imperial Act, and with the general spirit of the Constitution of the Dominion as established by that Act, for you to allow these Acts to remain in force.

I have, &c.,

(Signed) KIMBERLEY.

Governor General,
The Right Honorable
The Earl of Dufferin, K.P., K.C.B.,

Mr. Under Secretary Langevin to Lieutenant-Governor Tilley.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 16th March, 1874.

SIR,—With reference to your Despatch of the 24th ult., I have the honor to transmit to you, for the information of the Legislative Assembly of the Province of New Brunswick, and in compliance with the request contained in their Address of the 23rd ult., enclosed in your Despatch, copies of Correspondence between His Excellency the Governor General and the Right Honorable the Secretary of State for the Colonies, relating to certain Acts passed by the Legislature of that Province.

Ottawa, 27th May, 1874.
Downing Street, 30th June, 1874.

I have, &c.,

(Signed) F. J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 20th March, 1874.

SIR,—I have the honor to acknowledge the receipt of your Despatch of 16th March, together with the enclosed copies of Correspondence between His Excellency the Governor General and the Right Honorable the Secretary of State for the Colonies, relating to certain Acts passed by the Legislature of this Province.

I have, &c.,

(Signed) S. L. TILLEY,
Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

NEW BRUNSWICK, 35TH VICTORIA, 1872.

3RD SESSION—22ND GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th April, 1873.

The undersigned to whom was referred a certified copy of the Acts of the General Assembly of the Province of New Brunswick, passed in the Session held in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 11th April 1872, has the honor to report:—

That after a careful examination of the said Acts he is of opinion that they are unobjectionable. He, therefore, recommends that the same be allowed to go into operation.

(Signed) JOHN A. MACDONALD.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th April*, 1873.

On a Report dated 5th April, 1873, from the Honorable the Minister of Justice, to whom was referred a certified copy of the Acts of the General Assembly of the Province of New Brunswick, passed in the Session held in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 11th April, 1872,

stating that after a careful examination of the said Acts he is of opinion that they are unobjectionable, and recommends that the same be allowed to go into operation;

The Committee accordingly advise that the said Acts be allowed to go into operation.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

NEW BRUNSWICK, 36TH VICTORIA, 1873.

4TH SESSION—22ND GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd September, 1874.

The undersigned, to whom is referred a certified copy of the Statutes passed by the Legislature of the Province of New Brunswick, in the Session thereof, held in the 36th Victoria, A.D. 1873, has the honor to report:—

That, after a careful examination of the Statutes, he is of opinion that the following are unobjectionable, and he, therefore, recommends that they be left to their operation.

Chapters 1 to 12 inclusive, 14 to 28 inclusive, 30 to 85 inclusive, 87, 89, 90, 94, 95, 96, 97, 98, 99, 101 and 102.

With reference to the Acts not included in the above list, the undersigned has the honor to report as follows:

Chapter 13.—"An Act further relating to the several County Courts of New Brunswick."

Section 1 has reference to appeals from the conviction of a Justice of the County Court in its criminal competence. If this be so, it is a matter of criminal procedure and not within the competence of the Local Legislature.

The attention of the Government of New Brunswick is called thereto, with a suggestion that the clause should be repealed.

Chapter 29.—"An Act to establish certain Courts in the County of Madawaska."

Section 4.—The working of this section has been represented as being beyond the competence of the Local Legislature, as in effect an appointment by them of a Judge. Correspondence having been, however, had with the Government of New Brunswick on this point, an Act has been passed in the Session of 1874 in amendment of the same.

Chapter 86.—"An Act to incorporate the Saint George Red Granite Company, Limited."

Section 3 seems to contemplate the carrying on of a business by a Company in England and in the United States, and it may be doubted if this is not in excess of Legislative competence.

It is suggested that the attention of the Government of New Brunswick should be called to it.

Chapter 88.—"An Act to incorporate the Lake George Railway Company."

Chapter 91.—"An Act to authorize David H. Budge and Samuel Stanton to erect a Boom across Eel River (near the mouth thereof) in the County of York, also side booms and piers in connection therewith."

Chapter 92.—"An Act to incorporate the North-West Boom Company."

Chapter 93.—"An Act to incorporate the Bay of Fundy Red Granite Company, Limited."

Chapter 100.—"An Act to incorporate the Back Creek Stream Driving Company."

In these different Statutes there are no words which show the character of the streams, rivers or waters to be affected by the Companies incorporated under them, and whether such streams, rivers or waters are navigable or merely floatable.

In the absence of any clear enactment on this, it is difficult to say whether the same are or are not within the competence of the Legislature.

In any Acts of the Parliament of Canada having reference to the crossing or bridging of navigable streams or waters, provision is always inserted regarding the approval of the Governor in Council before such is carried into effect, and in many cases the plans for crossing or interfering in the same, must be submitted for the same approval.

When, therefore, such powers as are claimed by these Acts have been granted by the Parliament of Canada, they have been accompanied by restrictions and conditions calculated to protect a free navigation and the interests of the Dominion.

The enactments in the above-mentioned Statutes are so unrestricted in their terms, that they would appear to apply to all waters.

If, therefore, they would thus interfere with navigable waters, the subject is one suggested for the consideration of the Government of New Brunswick, as being one in which Legislation should be had to define the rights intended to be granted by the Acts in question.

Chapter 103.—"An Act to incorporate certain Districts of the Parish of Saint Stephen, in the County of Charlotte, to be known as the Town of Milltown."

Section 42, Sub-section 1, purports to confer on the Council of the Town of Milltown the right to make By-Laws.

First—The regulating weights and measures, &c.

This is a matter solely within the competence of the Parliament of Canada.

It is not out of place to remark here that the Act passed by the Dominion Parliament on this same subject will be shortly put into operation, as the standard of weights and measures ordered in England are now reaching Ottawa; and that as soon as they be verified, the law will be put into operation.

It is suggested that this section should be repealed.

Sections 4, 5 and 6.—It may be doubted whether, in the way in which these sub-sections are worded, they are not in restraint of, or purporting to regulate trade and commerce: and the consideration of the Government of New Brunswick should be drawn to this point.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council approved by His Excellency the Governor General in Council on the 7th September,* 1874.

The Committee of the Privy Council have had under consideration the Memorandum dated 2nd September, 1874, and hereunto annexed, from the Hon. the Minister of Justice, to whom was referred a certified copy of the Statutes passed by

the Legislature of the Province of New Brunswick, in the Session thereof held in the 36th Victoria, A.D. 1873, and they respectfully advise the said Statutes be, as therein recommended, left to their operation; but that the attention of the Government of New Brunswick be called to the several Acts or sections of Acts referred to in the latter part of the said Memorandum.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

NEW BRUNSWICK, 37TH VICTORIA, 1874.

5TH SESSION—22ND GENERAL ASSEMBLY.

Sir Edward Thornton to the Governor General.

WASHINGTON, 20th December, 1873.

MY LORD,—I have the honor to enclose copy of a note from Mr. Fish, submitting a complaint made by citizens of the State of Maine, with regard to obstacles alleged to be placed in the way of the navigation of the River Meduxmekeag, which, rising in that State, falls into the River St. John; and I shall feel much obliged if Your Excellency will cause enquiries to be made whether there is any ground for the above-mentioned complaint.

I have, &c.,

(Signed) EDWARD THORNTON.

His Excellency the Right Hon.
The Earl of Dufferin, K.P., K.C.B. &c., &c.

Mr. Fish to Sir Edward Thornton.

DEPARTMENT OF STATE, WASHINGTON, 19th December, 1873.

SIR,—This Department has received, through Members of Congress, a memorial from the inhabitants of the State of Maine, engaged in the lumber trade on the Meduxmekeag River, representing that they have been materially injured in their business by the proceedings of a Corporation chartered by the Legislature of H. M. Province of New Brunswick, which Corporation has placed dams, booms and piers on

that river at or near its mouth, claiming and exercising authority to collect tolls on lumber passing down the same. As the proceedings of the Corporation adverted to, appear to be at variance with the stipulations in the 3rd article of the Ashburton Treaty, I will thank you to bring the subject to the attention of the proper Authority, in order that measures may be adopted towards redressing the grievances complained of.

I have &c.,

(Signed) HAMILTON FISH.

The Right Hon.
Sir EDWARD THORNTON, K.C.B., &c., &c., &c.

Mr. Under Secretary Langevin to the Lieutenant-Governor of New Brunswick.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 6th February, 1874.

SIR,—I am directed to transmit a copy of a Despatch from Her Majesty's Minister at Washington, and of the Despatch of the Secretary of State of the United States, therein referred to, relative to an alleged obstruction by a Corporation chartered by the Legislature of the Province of New Brunswick, of the navigation of the River Meduxmekeag, in contravention of Article 3 of the Ashburton Treaty.

I am to request that you will have the goodness to cause all the necessary information on the subject to be obtained, and that you will transmit the same with a copy of the Charter complained of, if such exists, to this Department, for the information of His Excellency the Governor General.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Telegram to Lieutenant-Governor, New Brunswick.

OTTAWA, 9th February, 1874.

Please send early reply to letter of 6th instant respecting Secretary of State at Washington's complaint as to obstruction on Meduxmekeag River.

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

Lieutenant-Governor Tilley to the Secretary of State of Canada.

GOVERNMENT HOUSE, FREDERICTON, 3rd March, 1874.

SIR,—I have the honor to transmit, for the information of His Excellency the Governor General, a copy of the Report of my Attorney-General in which he states that, in his opinion, the Charter granted to the Meduxnakik Boom Company, does not interfere with the rights secured to American subjects under the Ashburton Treaty.

The Company referred to, are now seeking an extension of time for their Charter from the Legislature. Should their application be complied with, which is possible, provided certain conditions asked for by United States citizens are inserted, I will reserve the Bill for the consideration of His Excellency.

A copy of the evidence taken before the Committee, and of their Report will be forwarded for the information of the Governor General.

I have, &c.,

(Signed) S. L. TILLEY,

Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

Report of Mr. Attorney-General King.

ATTORNEY-GENERAL'S OFFICE, FREDERICTON, 28th February, 1874.

SIR,—I have the honor to have received your direction to report upon the matters referred to in the communication of the 6th inst., from the Department of the Secretary of State, forwarding copies of Despatches from the Secretary of State of the United States to Her Majesty's Minister at Washington, and from Her Majesty's Minister to His Excellency the Governor General.

It is represented that inhabitants of the State of Maine have been materially injured in their business by the proceedings of a Corporation chartered by the Legislature of this Province.

I have the honor to submit herewith a copy of the several Acts relating to the Corporation, viz.:—

1. An Act to incorporate the Meduxnakik Boom Company, 8 Vic., Chap. 49.
2. An Act to amend the Act to incorporate the Meduxnakik Boom Company, 10 Vic., Chap. 80.
3. An Act to continue the several Acts relating to the Meduxnakik Boom Company, 13 Vic., Chap. 12.
4. An Act to continue the several Acts relating to the Meduxnakik Boom Company, 20 Vic., Chap. 31.
5. An Act to continue the several Acts relating to the Meduxnakik Boom Company, 23 Vic., Chap. 16.
6. An Act to continue the several Acts relating to the Meduxnakik Boom Company, 31 Vic., Chap. 55.

The Meduxnakik (Meduxmekeag) is a tributary of the St. John River; it rises in the State of Maine, but for a distance of about twelve miles from its junction with the St. John, it flows through the Province of New Brunswick.

I am of opinion that the Acts of the General Assembly above referred to cannot be deemed in violation of the stipulation of the 3rd Article of the Ashburton Treaty.

I have not been able to obtain information sufficient to state what has been the practical operation of the corporate power so granted, or whether or not the Corporation have exceeded such powers.

The facts are in dispute, and I have not thought it necessary at present to enter into the somewhat lengthened enquiry that would be necessary in order to obtain full and trustworthy information, inasmuch as (1st) The complaint referred to in the Despatch of the Secretary of State of the United States is general, and seems to relate to the character of the Legislative Authority under which the Corporation act, and (2nd) The Corporation having made application to the Legislature now in session for an extension of their Charter, a Committee of the Assembly are now engaged in taking evidence under oath, as well on behalf of the inhabitants of the State of Maine owning land on the head waters of the Meduxnakik, as on behalf of the Corporation.

The parties are severally represented by Counsel. On the completion of the labors of the Committee, I shall lay before you a copy of the evidence.

In the event of the passage of the Bill, I would advise that it be reserved for the signification of the pleasure of the Governor General.

I have, &c.,

(Signed) G. E. KING,
Attorney-General.

His Honor
The Lieutenant-Governor.

Mr. Under Secretary Langevin to the Lieutenant-Governor of New Brunswick.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 16th March, 1874.

SIR,—With reference to your Despatch of the 3rd inst., on the subject of the Charter of the Meduxnakik Boom Company, I am directed to request that any Bill which may be passed by the Legislature of the Province of New Brunswick, in any way relating to the Charter of this Company, may, in accordance with the suggestion contained in your Despatch, be reserved for the consideration of His Excellency the Governor General.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Mr. Under Secretary Langevin to Governor General's Secretary.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 16th March, 1874.

SIR,—Referring to the Despatch of Her Majesty's Minister at Washington, and its enclosure No. 45, of the 20th December last, with regard to the obstacles alleged to be placed by a Company chartered by the Legislature of the Province of New Brunswick, in the way of the River Meduxnakik, I have the honor to acquaint you, for the information of His Excellency the Governor General, that copies of these documents were forwarded to His Honor the Lieutenant-Governor of New Brunswick, with a request that all the necessary information on the subject may be obtained, and communication with a copy of the Charter complained of, if such existed, to this Department.

I have now to transmit to you, for His Excellency's information, a copy of a Despatch from the Lieutenant-Governor, together with the Report of the Attorney-General of New Brunswick, and its enclosures (4) therein referred to, giving the opinion of that Officer with respect to the operations of the Company in question under their Charter.

I have to add that the Lieutenant-Governor has been requested to reserve any Bill which may be passed by the Legislature of New Brunswick in any way relating to the Charter of the Company for His Excellency consideration.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

Lieutenant-Colonel FLETCHER,
Governor's Secretary.

Lieutenant-Governor Tilley to the Secretary of State of Canada.

GOVERNMENT HOUSE, FREDERICTON, 18th May, 1874.

SIR,—At the last Session of New Brunswick Legislature a Bill was submitted, to further continue the Act to incorporate the Meduxnakik Boom Company.

A protest against the passage of the Bill was forwarded from the Authorities at Washington to His Excellency the Governor General, alleging that in its operations it would deprive American citizens of the rights secured to them under the Ashburton Treaty.

The Bill as originally submitted has been materially changed by the Legislature, and several conditions added, calculated to secure the free navigation of the river to all manufacturers of lumber.

I deemed it best, however, to reserve the Bill; and now have the honor to enclose a certified copy for the signification of the pleasure of His Excellency the Governor General.

I have, &c.,

(Signed) S. L. TILLEY,

Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th May, 1874.

The Lieutenant-Governor of New Brunswick transmits, by Despatch of the 18th of May inst., the Bill passed by the Legislature of that Province, at its last Session, Chapter 61, intituled :

"A Bill to further continue and amend the Act incorporating the 'Meduxnakik Boom Company,'" and reserved by the Lieutenant-Governor on the 8th day of April last, for the signification of Your Excellency's pleasure thereon;

Upon this Bill, the undersigned has the honor to report :—

That it is for the purpose of continuing in existence the incorporation of the Company named, and for providing for the continuance of the boom of the Company, under certain amended provisions.

The Bill consists of details in respect to the boom and the management thereof by a boom-maker, and the passage of logs into and through the same.

The subject of this Bill was, in December last, brought under the notice of Your Excellency by Her Majesty's Minister at Washington, at the request of the Secretary of State of the United States of America, who alleged on behalf of certain citizens of the State of Maine, that the Bill then before the Legislature tended to place and perpetuate obstacles being placed in the way of the navigation of the River Meduxnakik.

The objections then raised by Secretary Fish were submitted by Your Excellency to the Lieutenant-Governor of New Brunswick, and in March last, the Lieutenant-Governor reported that the Attorney-General of New Brunswick was of opinion that the Charter granted to the Boom Company, did not interfere with the rights secured to American subjects, under the Ashburton Treaty (that being, in effect, the complaint which Secretary Fish had made).

He further stated that the Company were seeking an extension of time for their Charter, and the Attorney-General stated that a Committee of the Assembly was then engaged in taking evidence under oath, as well on behalf of the inhabitants of the State of Maine owning land on the head waters of the Meduxnakik, as on behalf of the Company, and that the parties were severally represented by Counsel.

The river itself is a tributary of the St. John River, rising in the State of Maine and for a distance of about twelve miles from its junction with the St. John, it flows through the Province of New Brunswick.

The Bill now reserved is the result of the evidence taken by the Committee of the Legislative Assembly of New Brunswick, and after or in consequence of the opposition which had been raised by the citizens of the State of Maine who were opposed to it.

In forwarding the Bill so reserved, the Lieutenant-Governor remarks that the Bill as originally submitted has been materially changed by the Legislature, and several conditions added, qualified to secure the free navigation of the river to all manufacturers of lumber.

To this may be added that the Honorable Mr. Muirhead of the State of Maine representing to a great extent the interests which had opposed the Bill in the Legislative Assembly, has verbally expressed his concurrence, and that of most of those who are interested in the measure, and desire that the same should, for the interests of all parties concerned in the transmission of lumber down that River, be set in operation at the earliest date.

The undersigned has, therefore, the honor to recommend that in pursuance of the powers reserved by the British North America Act, 1867, to the Governor General, Your Excellency should assent to the said reserved Bill.

H. BERNARD,
Deputy Minister of Justice.

I concur.
A. A. DORION,
Minister of Justice.

Proclamation giving assent to Act above-mentioned.

GOVERNMENT HOUSE, OTTAWA, 29th May, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas by the British North America Act, 1867, it is amongst other things in effect enacted, that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force, unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by proclamation, that it has received the assent of the Governor General in Council;

And, whereas, on the 8th day of April, 1874, the Lieutenant-Governor of the Province of New Brunswick reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "A Bill to further continue and amend the Act to incorporate the Moduxnakik Boom Company," for the signification of the Governor General's pleasure thereon;

And, whereas, the said Bill so reserved as aforesaid has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General in Council;

Now, therefore, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present Order, by and with the advice of the Queen's Privy Council for Canada, assent to the said Bill.

And the Secretary of State of Canada is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

NOTE.—The remaining Acts of the Session of 1874 do not appear to have been reported upon.

NEW BRUNSWICK, 38TH VICTORIA, 1875.

1ST SESSION—23RD GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th October, 1876.

With reference to the Statutes of the Legislature of New Brunswick, passed in the Session thereof held in the year 1875 (38 Victoria), the undersigned begs to report, as follows :—

Chapters 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 41 to 67 inclusive, 69 to 99 inclusive, 101, 102, 103, 104, 105, 106, 107, 108, 110, 112, 113, 114, 115, 117, 119, 120, 121, 122, 124, 126, 128, 130 to 142 inclusive, do not appear to call for observation, or for the exercise of the power of disallowance.

Chapter 4. "An Act to amend the Attachment and Abolition of Imprisonment for Debt Act."

By this Act imprisonment for debt is revived. Whatever may be the opinion as to the expediency of such Legislation, it is so essentially a local matter that, in the opinion of the undersigned, the Act should be left to its operation.

Chapter 11. "An Act to provide for the establishment, maintenance and management of Reformatory and Industrial Schools."

The undersigned defers for the present his Report on this Chapter.

Chapter 13. "An Act to authorize the issue of Provincial debentures for certain purposes."

This Act authorizes, amongst other things, the issue of debentures in aid of the construction of a carriage and foot bridge across the River St. John at Woodstock, and provides that the Governor in Council may contract for the erection of this bridge as a separate undertaking, or in connection with the railway bridge to be built by the New Brunswick Railway Company across the River St. John at Woodstock.

The undersigned would refer to former Reports with reference to bridges proposed to be erected across this river. These Reports show that apart from the general question of interfering with the St. John as a navigable river, there is a necessity for special caution, in view of the Treaty with the United States, as to its navigation.

It is presumed that it is not within the competence of the Provincial Legislature to authorize or do any act of this description, and it may be necessary for the Government of Canada to interfere, in case any such act should be attempted.

The Statute in question provides also for other objects, and any action under it towards the construction of the bridge can only take place through the Governor in Council; it would not seem necessary, therefore, to do more at present, than call the attention of the Lieutenant-Governor to the Act, with the intimation that there are no particulars before the Government which would enable it to judge whether the bridge ought to be constructed, and the suggestion that before the time for determining as to its disallowance expires, so much of the Act as relates to this bridge should be repealed or amended, by providing that nothing should be done under it without lawful authority from Canada.

Chapter 38. "An Act to amend an Act to incorporate the Fredericton Boom Company and the several Acts in amendment thereof."

The Fredericton Boom Company was established many years ago under a Provincial Act of Parliament. This Act extends its powers, rights, privileges and duties on both sides of the St. John River and the island therein, from the mouth of the Mactaquac stream down the St. John River to below the Nashwaak, and authorizes the erection of side-booms, piers and other works in and along the River St. John, and on both sides of the river, and any other works connected therewith between these points, for the purpose of collecting timber, &c., floating down the river.

The 8th Section provides, that it shall be the duty of the Company to keep the channel of the river passable at all times as far as practicable for steamboats, boats and other vessel property, as also for rafts, and there are provisions for charging a toll on any rafts of logs or other lumber coming down the River St. John without any men on it, and which may be carried into any of the boom of the Company, and the existing powers of the corporation are also extended to the new works.

The undersigned and his predecessors have had occasion to point out with reference to several Provincial Statutes, the question, which may arise on Legislation of this description.

The undersigned has communicated with the Minister of Marine as to his view of the probable operation of this Act, and he understands that the Minister—although some of the clauses are not quite so clear and full as they might be—does not apprehend injury to the navigation.

The Minister does not conceive that the Act confers any more power upon the Company to interfere with navigation, than that which they have enjoyed for the last thirty years.

It is obvious, as has already been pointed out, that in case the navigation is attempted to be interfered with, under color of the Act, such interference cannot be justified, since the Provincial Legislature cannot confer any power to interfere with the navigation; and, upon the whole, having regard to the view of the Minister of Marine, the undersigned recommends that this Act be left to its operation, but that the attention of the Lieutenant-Governor be called to the possible inconvenience which may arise from such legislation.

Chapter 40. "An Act to incorporate the Town of Moncton."

The 47th Section of this Act gives to the Council power to provide for the management of wharves, piers, &c., in the town, and the toll to be paid for vessels and steamboats touching thereat or using the same.

The undersigned would remark that if there be a public harbor within the limits of the town, the powers given by these sub-sections may be beyond the competency of a Local Legislature, as applied to such harbor. He recommends that the attention of the Lieutenant-Governor should be called to this point, as also to a similar question which arises with reference to the 49th Section.

Chapter 68. "An Act to regulate the sale of spirituous liquors in the Parishes of Lancaster, Simonds, and Saint Martins, in the City and County of Saint John."

Sections 9, 10 and 11 of this Act raise some of the questions so frequently referred to, as in the course of Judicial decision.

Chapter 100. "An Act to provide for the establishment of a police force and lock-up house at Caraquet, in the County of Gloucester."

Sections 5, 9 and 15. The word "offence" is used in describing the breaches of the Act.

The undersigned refers to former Reports, in which the inconvenience of so describing breaches of Provincial Statutes is discussed, and suggests that the attention of the Lieutenant-Governor should be called to the propriety of altering the phrase.

Section 7 provides for a special punishment for assaults on constables. Similar provisions have been more than once remarked upon as objectionable.

The undersigned recommends that the Lieutenant-Governor should be requested to consider these clauses with a view to their repeal, as trenching upon Criminal Law.

Section 8. The offence provided against by this Act would appear to be a malicious injury to property, already made a crime under Canadian law, and the undersigned recommends that the Lieutenant-Governor should be asked to invite its repeal.

Sections 10 to 15, both inclusive, and Section 19.

Some question may arise as to whether these Sections may not trench upon Criminal Law with reference to procedure.

Chapter 109. "An Act to amend an Act intituled : "An Act to incorporate the New Brunswick and Canada Railroad Company.' "

The undersigned begs to report that, from an examination of the lines authorized to be constructed by the various Companies now included in the New Brunswick and Canada Railroad Company, it appears that these lines are within the Province of New Brunswick, thus being within the competence of the Local Legislature. The Act should be left to its operation.

Chapter 111. "An Act to incorporate the Maritime Mutual Fire Insurance Company."

This Act does not in terms limit the powers of the Company to a Provincial business ; but from the whole tenor of the Act it seems tolerably plain that a Provincial business only is intended.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to the doubt, with a request that his Government would consider the propriety of clearing it up by an amendment.

Chapter 116. "An Act to incorporate the St. Croix Wharf Company."

This Act incorporates a Company for the erection of a wharf on the River St. Croix, at any point at or near Johnson's Cove, and it authorizes a toll upon property shipped from or landed on the wharf.

The undersigned has had already occasion to remark upon the questions to which Legislation of this description gives rise, and it is his duty to point out that it is not within the power of a Local Legislature to authorize any interference with navigation, or with a public harbor ; and that a question may arise as to the validity of the Act.

With these observations, however, he recommends that it should be left to its operation.

Chapter 118. "An Act to incorporate the Shediac Station Wharf Company."

The observations made on the preceding Statute apply to this one.

Chapter 123. "An Act to incorporate the Beliveau-Albertite and Oil Company."

This Act authorizes the Company to construct a Railway or tramway over and across any brooks, streams or rivers on public lands, and to build harbors, piers or breakwaters on land owned by the Company, above or below low-water mark, license therefor having been first applied for and obtained from the Governor General of Canada or the Lieutenant-Governor of New Brunswick in Council, as requisite.

The undersigned has already adverted to the questions which may arise with reference to such Legislation, and he refers to his former Report as applicable to this Act.

Chapter 125. "An Act to incorporate the Utopia Red Granite Company of Saint George."

The 8th Section of this Act contains provisions similar to those just remarked upon.

Chapter 127. "An Act to authorize the erection of a Boom across the Jacquet River, in the County of Northumberland."

This Act authorizes the construction of piers, booms and side-booms for the purpose of collecting and forwarding timber, &c., floating down the Jacquet River, &c. It provides for the preservation of the navigation of the river, and authorizes the collection of tolls.

The undersigned refers to his observations already made upon similar Legislation.

Chapter 129. "An Act to incorporate the Eel River Log-driving Company."

Chapter 143. "An Act to incorporate the Maduxnakik Stream Driving Company."
The undersigned refers to former observations upon similar Acts, which apply to these.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee have had under consideration the Report hereunto annexed, from the Honorable the Minister of Justice, having reference to certain Statutes therein mentioned, passed by the Legislature of the Province of New Brunswick, in the Session thereof held in the year 1875, 38 Victoria, and they respectfully submit their concurrence therein, and advise that a copy thereof, and of this Minute, be transmitted for the information of the Lieutenant-Governor of New Brunswick.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th December, 1876.

Upon the Act of the Legislature of New Brunswick, 38 Victoria, Chapter 11, of 1875, intituled :—

"An Act to provide for the establishment, maintenance and management of Reformatory and Industrial Schools;"

The undersigned begs to report, that this Act provides for the establishment of Reformatory and Industrial Schools united under one management, but as separate institutions, for the reformation of juvenile offenders sentenced to imprisonment and for the reception, education, and maintenance of homeless and destitute children.

Both objects contemplated by the Act have been the subjects of Legislation in different Provinces, but the undersigned is not aware that any attempt has heretofore been made to conjoin these operations in the same buildings, and under the same management.

The Act providing that the Reformatory School, when established, shall be a Reformatory Prison, and the British North America Act authorizing the establishment of Reformatory Prisons by Provinces, this subject would appear within the Provincial jurisdiction.

The 19th Section provides that the withdrawal of a certificate from any Reformatory School shall not be published, until proper disposition is made of the offenders confined.

The attention of the undersigned has been called to the inconvenience and unsuitability of providing for the detention in the same building, and under the same management, of homeless and destitute, but unoffending children; but however serious are the objections to which this case may be thought open, it does not seem to call for the exercise of the power of disallowance, and he recommends that the Act should be left to its operation.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellencey the Governor General in Council on the 8th December*, 1876.

Upon the Report of the Hon. the Minister of Justice, dated 5th December, 1876, hereunto annexed, and for the reasons therein stated, the Committee advise that the Act of the Legislature of New Brunswick, 38th Vic., Chap. 11, 1875, intituled : "An Act to provide for the establishment, maintenance and management of Reformatory and Industrial Schools," be left to its operation.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

NEW BRUNSWICK 39TH VICTORIA, 1876.

2ND SESSION—23RD GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 16th October, 1876.

With reference to the Acts of the Legislature of New Brunswick, passed in the year 1876 (39th Victoria), the undersigned begs to report as follows :—

He recommends that the following Acts be left to their operation, namely :—Chapters 1 to 50 inclusive, Chapters 53 to 62 inclusive, and Chapters 64, 65, 66, 67 and 68.

Chapter 51. "An Act to incorporate the New Brunswick Red Granite Company (Limited.)"

Chapter 52. "An Act to incorporate the Lepreaux Red Granite and Freestone Company."

These Acts contain provisions similar to those contained in Chapters 116, 118 and 133 of the Acts of the former Session, the observations upon which are applicable to these Acts.

Chapter 63. "An Act to incorporate the Pollit River Log-driving Company."

The undersigned refers to his observations already made upon similar Acts passed in the previous Session of the Legislature of the Province.

The undersigned recommends that the attention of the Lieutenant-Governor be called to these Acts, but that they be left to their operation.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee of Council have had under consideration the Report, hereunto annexed, dated 16th of October, 1876, from the Honorable the Minister of Justice, having reference to the Acts of the Legislature of New Brunswick, passed in the year 1876 (39th Victoria); and they concur in the recommendations contained in said Report, and submit the same for Your Excellency's approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 16th January, 1877.

SIR,—I have the honor to forward, in compliance with the request of a Committee of my Executive Council, a copy of the Report of the Attorney-General upon certain Acts relating to the withholding of liquor licenses, for transmission to His Excellency the Governor General.

I have, &c.,

(Signed) S. L. TILLEY,
Lieutenant-Governor.

The Honorable the Secretary of State for Canada.

REPORT *of the Attorney-General upon certain Acts relating to the withholding of Liquor Licenses.*

At the last Session of the Legislature, a resolution was passed by the House of Assembly to the effect that it is desirable that the Government should take the necessary steps to ascertain the powers of the Legislature as to granting or withholding licenses to sell spirituous liquors.

The following are the most material provisions of the Acts of Assembly relating to the withholding of such licenses :—

34 Vic., Cap. 6, Sec. 1, enacts that no license shall be granted or issued within any parish or municipality, when a majority of the ratepayers resident in such parish or municipality shall petition the Sessions or Municipal Council against issuing any license, within such parish or municipality.

39 Vic., Cap. 32, Sec. 2, provides that the number of licenses to be granted within the City of Fredericton shall not in any year exceed one for each full three hundred of the population, according to the clauses next preceding the granting of the licenses.

The Supreme Court of this Province in Regina *vs.* the Justices of the Peace of the County of King's (2nd Pugsley's Reports, p. 535) decided that the provisions of 34 Vic., Cap. 6, Sec. 1, are void, as being beyond the powers of the Legislature.

The second mentioned Act (39 Vic., Cap. 32) has been left to its operation by His Excellency the Governor General in Council.

By Section 52 of the Supreme and Exchequer Court of Canada Act it is enacted, that the Governor General in Council may refer to the Supreme Court of Canada for hearing or consideration any matter whatsoever as he may think fit, and the Court

shall thereupon hear and consider the same, and certify their opinion thereon to the Governor in Council.

Application might be made to His Excellency the Governor General in Council, that His Excellency might be pleased to refer to the Supreme Court of Canada the question of the validity of the above recited clauses of 34 Vic., Cap. 6 and 39 Vic., Cap. 32.

In the event of such reference being made, this Government would be prepared to assume any expense attending the reference.

In case His Excellency the Governor General in Council should not be pleased to make such reference, the questions raised by the said Act might be submitted to the Supreme Court of the Province, upon a special case, with a view to their ultimate determination on appeal by the Supreme Court of Canada, but inasmuch as the second section of the Act 39 Vic., Cap. 32, does not come into operation until 1st May, A.D. 1877, it is conceived that the Supreme Court of the Province would decline to entertain at the present any question touching the validity of such Act.

After the coming into force of the 2nd Section, 39 Vic., Cap. 32, the course above proposed might be pursued.

G. E. KING,
Attorney-General.

COPY *of a Report of a Committee of the Executive Council, approved by His Honor the Lieutenant-Governor in Council on the* 13*th January*, 1877.

Upon the Report of the Attorney-General, upon certain Acts relating to the withholding of Liquor Licenses, the Committee advise that the Report be approved, and a copy thereof transmitted to His Excellency the Governor General.

F. A. H. STRATON,
Clerk Executive Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th January, 1877.

Upon the Despatch of the Lieutenant-Governor of New Brunswick, of the 16th January, 1877, enclosing, in compliance with the request of a Committee of his Council, a copy of the Attorney-General's Report with reference to certain Acts affecting Liquor Licenses, I beg to report as follows:—

No Order in Council approving of the Report of the Attorney-General has been communicated to His Excellency, but it may perhaps be assumed from the letter of the Lieutenant-Governor that such an Order has been made, and that in effect the Government of New Brunswick has requested compliance with the suggestion of the Attorney-General. The Report refers to a Resolution passed by the House of Assembly of New Brunswick, that it is desirable that the Local Government should take the necessary steps to ascertain the powers of the Legislature as to the granting or withholding of licenses to sell liquor, and suggests that in order to give effect to this resolution, the question of the validity of certain sections of two Provincial Acts should be referred to the Supreme Court of Canada.

The Attorney-General points out, that in case such reference be not made, the questions raised by the Acts may be submitted to the Supreme Court of the Province by a special case, with a view to their ultimate determination on appeal by the Supreme Court of Canada.

This course, however, he states, cannot be taken with reference to one of the Acts until the 1st May next, the time at which it is provided the Act shall come into force.

The alternative suggestion of the Attorney-General shows that it is not merely possible, but also easy, to bring the questions referred to before the consideration of the Supreme Court of Canada in its judicial capacity, by proceedings begun in the Provincial Court.

There is, therefore, obviously no absolute necessity for resorting to the plan which he proposes.

It may be laid down as a general rule that the power of reference to the Supreme Court by the Governor General in Council should not be exercised in matters which may, in the ordinary course of things, be brought judicially before that tribunal.

The opinion of the Supreme Court on such a reference would be given without the advantage of hearing argument. Such a disposition of an important and difficult question could hardly be regarded as satisfactory by the parties, while it would be unfair to the Judges, who might, in the event of the question coming judicially before them, be embarrassed by their previous action.

On the whole, I recommend that the Lieutenant-Governor should be informed that, with every desire to meet the views of his Government, it is thought, for the reasons I have assigned, to be inexpedient to make the proposed reference.

(Signed) EDWARD BLAKE,
Minister of Justice.

Secretary of State to Lieutenant-Governor Tilley.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 3rd February, 1877.

SIR,—With reference to your Despatch of the 16th ultimo, on the subject of certain Acts relating to the withholding of Liquor Licenses, I am directed to transmit to you, herewith, a copy of a Report of the Minister of Justice, of the 29th ultimo, on the subject, and to inform you that, with every desire to meet the views of your Government, it is thought, for the reasons in the said Report assigned, to be inexpedient to make the proposed reference alluded to in your Attorney-General's Report, which accompanied your Despatch of the 16th ultimo.

I have &c.,
R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 7th February, 1877.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 3rd instant, in reply to my letter of the 16th ultimo, on the subject of certain Acts relating to the withholding of Liquor Licenses, together with a copy of a Report of the Minister of Justice, of the 29th ultimo, on the subject.

I enclose a copy of a Report of a Committee of the Executive Council, which was omitted with my previous Despatch.

I have, &c.,
S. L. TILLEY,
Lieutenant-Governor.

To the Honorable
The Secretary of State for Canada.

NEW BRUNSWICK, 40TH VICTORIA, 1877.

3RD SESSION—23RD GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd December, 1877.

Upon the Acts of the General Assembly of the Province of New Brunswick, passed in the Fortieth year of Her Majesty's reign, A.D. 1877,—received by the Secretary of State, on 19th May, 1877,—I beg to report:—

Cap. 1. "An Act to provide for defraying certain expenses of the Civil Government of the Province."

Cap. 2. "An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and Services."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 3.—"An Act relating to Municipalities."

Section 17 provides that each candidate for the office of Councillor shall, before being considered as properly nominated, make a certain declaration in writing, and goes on to provide that any person wilfully making a false declaration, or a declaration that he does not know to be true, shall be liable to a penalty not exceeding one hundred dollars.

This appears to entrench on the Criminal Law relating to perjury, and thus to be beyond the Legislative authority of the General Assembly.

The Act respecting Perjury, namely, 32 and 33 Vic. (1869.)

Cap. 23 appears to make full provision for the punishment of a person making a false declaration in such a case.

Section 90. The word "offence" is used in this section as describing a breach of the provisions of the section. It has been pointed out on previous occasions that this word is objectionable in describing a breach of Provincial law, and the Governments of several Provinces have been requested to avoid, in Local Legislation, the use of this word for such purposes.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Section 92 provides that every County or Parish officer, whether in office at the time the requisition is made or not, shall, when required by the County Council, render full, true and detailed accounts of all moneys received and paid by him under the Orders of the Council, or by the authority of any Act of Assembly, or otherwise by virtue of his office, and shall, in like manner, whenever ordered, pay over any sum or sums of money which, by such accounts, shall appear to be due by such officer and to have come to his hands as such officer as aforesaid, to such person or persons as the Council in such order may appoint to receive the same; and, in case of disobedience of any such order, or of any other order of the Council, lawfully made, or if the same shall not be attended to within ten days after the service of such order, it shall and may be lawful for any Council to cause such disobedient or refractory Officer, by warrant (E), to be brought before the Council, and if such disobedience or improper conduct be persisted in, then or at any time afterwards, to commit such Officer to the Common Gaol, without bail, until such Order or Orders of the Council

shall be complied with, and such proceedings of the Council against the said Officer shall not in any case relieve his sureties from liability on any bonds entered into by them."

Section 93 provides that in case the Officer against whom the warrant is issued, be brought before the Council in consequence of their not being in Session at the time of the execution of such warrant, such officer may be taken before a Justice of the Peace, and may enter into a recognizance with two sureties, and in such amount as the Justice may determine, not less than four nor more than eight hundred dollars, to appear at the next meeting of the Council and abide the order of the Council, and in default of such recognizance being given, the Justice shall commit such Officer to the County Gaol, there to remain until the sitting of the next Council meeting, unless such recognizance be sooner given.

Section 94 provides that upon any person being brought before the Council by virtue of a warrant issued under the provisions of the Act, the Council may, instead of committing such person to gaol pending an investigation, take from him a recognizance with sureties, to appear at any meeting of the Council to be named, and abide the order of such Council, and Section 95 provides that if the Council shall make an order for the payment by any Officer, of any sums found to have been unlawfully applied or retained by him (which order the Council is hereby empowered to make) and such order be not complied with, the Council may, instead of committing such a person to gaol, make an order to the sheriff or constable, directing him to levy of the goods and chattels which he (the Officer) was ordered to pay and in default of goods and chattels whereon to levy such sum, to take the person and deliver him to the keeper of the gaol of the County, there to be kept safely until payment is made in full of the said amount and costs, or until discharged by order of the Council.

These provisions appear to me very objectionable, and such as should not be left to their operation.

Among other objections which may properly be made to them are the following :—

1. If the circumstances connected with the non-payment of the money or with the disobedience to the orders of the Council be such as to make the defaulting or disobedient Officer criminally liable, his punishment is already provided for by the Criminal Law. The Larceny Act, 32-33 Vic. (1869), Cap. 21, would probably cover the case, and in this respect the provisions of the sections referred to seem to entrench upon the Criminal Law.

2. A very exceptional mode of determining the liability of the Officer and of realizing any amount due by him is pointed out, and the ordinary Courts of justice established for determining the civil and criminal liability of the subject, are entirely disregarded, the proceedings of the Council apparently not even being subject to appeal, or to be reviewed by any of the Courts of justice, although by the order of the Council, the liberty of the subject may be interfered with, and the disobedient or refractory Officer imprisoned indefinitely, without being allowed even the opportunity of giving bail.

3. That the tribunal thus established, and to which such arbitrary powers are intrusted, and which is to be the judge to pronounce upon the extent of the liability, is composed of the persons most interested in the subject matter, upon which the decision is to be given. The Council is in effect made sole Judge in its own case.

I recommend that the attention of the Lieutenant-Governor be called to these provisions, with a request that his Government may, at the next Session, before the time expires within which the Act must be disallowed, promote Legislation to amend or repeal them.

Section 96 gives the Council power to make By-laws on certain subjects. Among others (Sub-section 18) "For the occupation and grazing of marshes, sand bars, beaches and other low lands and islands, and the erection of water and other fences and gates thereon, and for determining what creeks, lakes, swamps, rivers, arms of the sea and fences shall be deemed lawful enclosures for the same."

Sub-section 24.—"For the regulation and management of booms for holding timber, logs and other lumber, and for the driving of timber and logs; for fixing the table of tolls for boomage, with the lien of the boom master therefor, and prescribing the mode of recovering and right of disposing of the lumber of any person for which such boomage may be charged in default of payment, not interfering with any corporation or person empowered by law to establish a boom."

Sub-section 92.—"For regulating the assizes of 'bread.'"

Sub section 33.—"For preserving the banks of rivers."

Sub-section 39.—"For further regulating the measurement of boards, shingles, lathwood and other lumber, cordwood and other fuel."

Sub-section 44.—"For regulating the discharging and depositing of ballast."

The 97th Section declares that no such laws shall be of any force so far as they are repugnant to any law, or beyond the authority or power which can be given by the Legislature of the Province.

This limitation upon the power of passing By-laws renders it less difficult to leave the 18th, 24th, 33rd and 44th Sub-sections above mentioned to their operation, and although those sub-sections seem to some extent to entrench upon subjects over which the Parliament of Canada has exclusive Legislative authority, yet in view of the restriction contained in the 97th Clause, no inconvenience is likely to arise from their provisions.

The 32nd and 39th Sub-sections appear, however, to entrench upon the subject of weights and measures, upon which, by the Confederation Act, the Parliament of Canada alone can legislate.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 4.—"An Act relating to Jury Fees."

Cap. 5.—"An Act relating to the Sittings of the Supreme Court."

Cap. 6.—"An Act relating to County Courts."

Cap. 7.—"An Act further relating to the appointments of Notaries Public."

Cap. 8.—"An Act to amend 'The General Assessment Act of 1875.'"

Cap. 9.—"An Act respecting Escheats and Forfeitures."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 10—"An Act in further amendment of the Act, intituled: 'An Act to amend and consolidate the Laws to regulate the sale of Spirituous Liquors.'"

The extent of the right of the Local Legislatures to deal with this subject is now under the consideration of the Courts, and, following the practice adopted in reference to other similar Acts, I recommend that the Act be left to its operation.

Cap. 11.—"An Act relating to Fences, Trespasses and Pounds."

Section 7 makes use of the word "offence." I call attention to the remarks above made as to the use of this word.

The Act, however, may be left to its operation.

Cap. 12.—"An Act to encourage and reward the destruction of Bears in the Province."

Cap. 13.—"An Act to provide for certain amendments and additions to an Act passed in the thirty-ninth year of the reign of Her Majesty, intituled: 'An Act to consolidate the Public Statutes of New Brunswick.'"

These Acts appear to be unobjectionable, and I recommend that they be left to their operation.

Cap. 14.—"An Act to continue an Act to incorporate the Northern and Western Railway Company of New Brunswick."

The Act which incorporated this Railway Company was left to its operation, and as this merely continues the Act for a certain time, it may be left to its operation.

Cap. 15.—"An Act in further amendment of the Acts relating to the New Brunswick Railway Company."

To this Act there appears to be no objection, and I recommend that it be left to its operation.

Cap. 16.—" An Act further to revive and continue an Act made and passed in the thirty-fourth year of Her Majesty's reign, intituled : ' An Act to incorporate the Central Railway Company.' "

For similar reasons to those given with respect to Cap. 14, this Act may be properly left to its operation.

Cap. 17.—" An Act to consolidate and amend the various Acts of Assembly of the Province of New Brunswick, relating to the Albert Railway Company."

Cap. 18 —" An Act to provide for a compensation to the members of the Common Council of the City of Saint John for Public Services."

Cap. 19.—" An Act to enable the Justices of the City and County of Saint John to sell and convey certain lands in the Parish of Simonds, in the said City and County, granted to the said Justices in trust for School purposes."

Cap. 20.—" An Act to define the side lines of Streets at that part of the City of Saint John lying on the western side of the Harbour of Saint John."

Cap. 21.—" An Act to erect part of the Parish of Lancaster, in the City and County of Saint John, into a separate Parish."

Cap. 22.—" An Act relating to Dorchester Street, in the City of Saint John."

Cap. 23.—" An Act to amend the law relating to Civic Elections in the City of Saint John."

Cap. 24.—" An Act to confirm a transfer made to the Crown of certain property of the City Corporation of Saint John."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 25.—" An Act to regulate the sale of Spirituous Liquors in the Parish of Lancaster, Simonds and Saint Martin's, in the City and County of Saint John."

I refer to the remarks on Cap. 10 as to the extent of the right of Local Legislatures to deal with this subject.

Section 19 provides that no dealer or tavern keeper shall permit any apprentice to any profession or trade, or any person under the age of sixteen years, or any Indian, or any noted vagrant, to sit or remain drinking in his house or on his premises, nor shall he sell or give, or suffer to be sold or given, any spirituous liquors whatever to any such person, &c., &c.

Section 28 provides that whoever shall be convicted of any violation or breach of any of the provisions of the Act, and for which no special penalty is provided, shall be liable, on the first conviction, to a penalty of not less than ten nor more than twenty dollars, and on every succeeding conviction of the same violation or breach, a penalty of not less than twenty, nor more than forty dollars.

By the 37th Section, penalties where recovered shall be paid into the County Treasurer of St. John, and by him placed to the credit of the Liquor License Fund of the parish in which the offence was committed, any Law or Statute to the contrary notwithstanding.

Among the subjects reserved for the exclusive Legislative authority of the Parliament of Canada, is that of Indians.

I refer to the Report of the Minister of Justice, dated 20th October, 1876, upon the Statutes of the Legislature of Prince Edward Island. In dealing with the 16th Section of Cap. 2 of those Statutes, which provided that no liquor should be sold, or given by any person or to any Indian, without a certificate from the Clergyman or Medical man under a penalty of $10 for every offence, one half of the fine to be paid to the informer, and the other half to the Treasurer of the Province, the following remarks were made :—

" Upon this section the undersigned obtained the view of the Department of the Interior, which points out that the provisions of the section are in direct conflict with those of the Dominion Act passed last Session, both as regards the amount and disposition of the penalty imposed, and that it seems clear that Local Legislation either in Prince Edward Island or elsewhere, on matters relating to the Indians, can hardly fail to cause great practical inconvenience and confusion, if not (as in the present case) actual conflict of laws. Very full provision is made by the Canadian Act, 39 Vic., Cap. 18 (1876), respecting Indians in the 79th and following Sections.

"It seems obvious that there should not be double Legislation upon such a subject."

These remarks equally apply to the section under consideration.

I recommend that the attention of the Lieutenant-Governor be called to the section, with a suggestion that it should be amended to meet the objections raised, at the next Session, and before the time expires within which the Act can be disallowed.

Section 20 is as follows :—"No dealer or tavern keeper shall entice, harbor or conceal any articled seamen or apprentice, on any pretence whatever, nor encourage or permit or suffer any riotous or disorderly conduct or drunkenness, or gambling of any kind in or about his premises."

The Dominion Parliament has, in its Act of 1873, Cap. 129, respecting the shipping of seamen, by Section 104, legislated upon the subject of enticing and harboring seamen or apprentices, and although I do not recommend a disallowance of this Act by reason of the 20th Section, yet I think it should be pointed out that inconveniences may arise by Legislation in a Province, upon a subject, in respect of which the Parliament of Canada has legislated, and may in future legislate.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

The word "offence" occurs in Sections 33 and 41. I refer to the remarks above made with reference to the use of this word.

Cap. 26.—"An Act to change the name of the Corporation 'McCawsland, Upham & Company,' to 'Fredericton Leather Company,' and for other purposes in connection therewith."

This Act appears unobjectionable, and I recommend that it be left to its operation.

Cap. 27.—"An Act to increase the facilities for the collection of Small Debts in the City of Fredericton."

I had occasion in reporting upon the Acts of British Columbia and also of Ontario, to point out the danger of permitting Provincial Legislation, which not only constitutes Courts for the administration of Justice, but also appoints the Judges of those Courts.

I desire here to refer to those Reports, inasmuch, however, as similar Legislation to that contained in this Chapter, has been left to its operation in other Provinces, I do not recommend the disallowance of this Act.

Cap. 28.—"An Act to amend the Town of Woodstock Incorporation Amendment Act, 1875."

To this Act there appears no objection, and I recommend it be left to its operation.

Cap. 29.—"An Act to continue and amend an Act passed in the sixteenth year of the reign of Her Majesty, intituled: "An Act to incorporate the Courtney Bay Bridge Company."

The Act which this Act continues and amends, was passed previous to Confederation, but it would seem that the bridge for the construction of which the Company was incorporated, has not yet been built, and as the right of the Local Legislature to pass this Act seems to depend upon whether or not the water over which the bridge is to pass, may be required for purposes of navigation. I made enquiries from the Department of Marine and Fisheries as to the navigability of the water in question.

The Deputy Minister of Marine and Fisheries states that there is no navigation at Courtney Bay, that place being all dry at low water, except in a small creek called "Marsh Creek," on the banks of which vessels as large as 1,500 tons burden are sometimes built. As provision is made in the Act that a sufficient draw or other means shall be placed and maintained in the bridge to allow access to ships and vessels up and down the creek, he sees no objection whatever to the continuation of the Act.

The 10th Section of the Act now under consideration provides that a plan and fully detailed description of the site and position of the bridge and road to be built,

including a complete detail as to size of draw to be placed in the bridge, shall be forwarded to the Minister of Public Works at Ottawa, and the site and position so selected shall be subject to the approval of the Governor General in Council.

Under these circumstances the Act seems unobjectionable, and I recommend that it be left to its operation.

Cap. 30—"An Act to erect parts of the Parishes of St. Leonard, St. Basil, Madawaska, and St. Francis, in the County of Madawaska, into three additional Parishes."

Cap. 31.—"An Act to authorize and empower the Municipality of the County of Victoria to sell and convey certain Lands and to erect Public Offices."

Cap. 32.—"An Act further regulating the selection of a Site for the Public Buildings in the County of Victoria."

Cap. 33.—"An Act relating to the Upper Road District in the Parish of Woodstock, in the County of Carleton."

Cap. 34.—"An Act to incorporate the New Brunswick Freestone Company."

Cap. 35.—"An Act to incorporate the Woodstock Cemetery Company."

Cap. 36.—"An Act relating to Sales by Auction in the Town of Moncton."

Cap. 37.—"An Act relating to the Baptist Church at Centreville, in the County of Carleton."

These Acts appear unobjectionable, and I recommand that they be left to their operation.

Cap. 38.—"An Act to alter and amend an Act intituled: 'An Act to incorporate The St. John Gas-light Company.'"

This Act authorizes the St. John Gas-light Company to lay a drain from the works of the Company into the harbor of the City of St. John, for the purpose of carrying off the refuse water arising from their gas works. This power, if unrestricted, might lead to serious evils, but as the Act provides that it shall not be exercised unless with the consent and approval of the Common Council of the City of St. John first had and obtained, and signified by a vote of at least ten members of the Common Council, exclusive of the Mayor, and unless upon the sanction of the Governor General of Canada first had and obtained, the Act may, I think, be safely left to its operation.

Cap. 39.—"An Act to incorporate The Brothers of the Christian Schools."

Cap. 40.—"An Act in addition to and in amendment of an Act intituled: 'An Act to authorize the Municipality of the County of Gloucester to raise money by way of loan to pay off the County Debt.'"

Cap. 41.—An Act to incorporate the St. Martin's Cemetery Company."

Cap. 42.—An Act relating to the Mount Pleasant Park Company."

Cap. 43.—"An Act to amend an Act intituled: 'An Act to incorporate the Maritime Mutual Fire Insurance Company.'"

Cap. 44.—"An Act to alter the time of holding the Election of County Councillors in the Municipality of Carleton."

Cap. 45.—"An Act relating to the Office of City Clerk in the City of Fredericton."

Cap. 46.—"An Act to empower the Town Council of the Town of Moncton to exempt any Company incorporated and formed for the purpose of supplying the Town of Moncton with Gas-light and Water from taxation for a term of years."

Cap. 47.—"An Act to amend an Act incorporating the Hillsborough Branch Railway Company."

Cap. 48.—"An Act in amendment of an Act to provide for the establishment of a Police Force and Lock-up House at Caraquet, in the County of Gloucester."

Cap. 49.—"An Act to incorporate the Moncton Driving Park Association."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 50.—"An Act to provide for the Sewerage Service and Water Supply in the Town of Portland."

The word "offence" is made use of in this Chapter; I refer to the remarks above made respecting the use of this word. The Act appears otherwise unobjectionable, and I recommend that it be left to its operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd February*, 1878.

The Committee of Council have had before them the Report dated 22nd December, 1877, from the Honorable the Minister of Justice, upon the Acts of the General Assembly of the Province of New Brunswick, passed in the fortieth year of Her Majesty's reign, A, D. 1877, and they concur in the several recommendations therein submitted, that the Acts reported as unobjectionable be left to their operation, and that the attention of the Lieutenant-Governor be called to the remarks contained in said Report.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 28th February, 1878.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 25th instant, and of copy transmitted therewith of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, upon the Acts of the Legislature of this Province, 40th Vic., 1877, for the information of my Government.

I shall, without delay, submit these documents to my Council, for their information and consideration.

I have, &c.,

S. L. TILLEY,
Lieutenant-Governor.

To the Hon. Secretary of State for Canada.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 26th April, 1878.

The Secretary of State will please communicate with the Lieutenant-Governor of New Brunswick, and request him to say what action (if any) has been taken in reference to the objections made to certain provisions of certain Statutes passed by

the Legislature of New Brunswick last year. As the time for disallowance will expire on the 19th May next, he should be requested to reply at his earliest possible convenience.

Z. A. LASH,
Deputy Minister of Justice.

Deputy Minister of Justice to Under Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 13th May, 1878.

If a reply has not already been received from the New Brunswick Government respecting the Acts of last Session of their Legislature, please telegraph them for a reply.

Z. A. LASH,
Deputy Minister of Justice.

To the Under Secretary of State.

Telegram to Lieutenant-Governor Tilley.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 13th May, 1878.

Unless reply to my letter of 1st instant, mailed on the 11th, please telegraph reply.

R. W. SCOTT,
Secretary of State.

To Lieutenant-Governor, Fredericton, N.B.

Telegram from Lieutenant-Governor Tilley.

ST. JOHN, N.B., 14th May, 1878.

Attorney-General's Report only received last evening and mailed. Municipality Act of seventy-seven was repealed by its incorporation in Consolidated Statutes under authority of Chapter thirteen of Acts of seventy-seven; the repeal is noted on page one thousand and nine of the Consolidated Statutes, which please see; the same is the case with the Act relating to fences, trespasses and pounds. See page one thousand and ten of Consolidated Statutes. The provisions of the Liquor Act relating to Indians and Articled Seamen were repealed at the late Session.

S. L. TILLEY,
Lieutenant-Governor.

To the Hon. Secretary of State.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 14th May, 1878.

SIR,—I have the honor to transmit to you, herewith, the Report of my late Attorney-General, in reference to the Report of the Honorable the Minister of Justice on the Acts of the Legislature of this Province, passed in 1877, 40 Vic., and which,

with the Order of His Excellency the Governor General in Council, was forwarded to me from your Department on the 25th February last.

I have, &c.,

S. L. TILLEY,
Lieutenant-Governor.

The Hon. Secretary of State for Canada.

MEMORANDUM *for His Honor the Lieutenant-Governor upon the Report, dated 22nd December, 1877, from the Honorable the Minister of Justice, upon the Acts of the General Assembly of this Province, passed in the Fortieth year of Her Majesty's reign.*

Cap. 3.—"An Act relating to Municipalities," certain sections of which were objected to, were repealed by its incorporation in Consolidated Statutes under the authority of Cap. 13 of Acts of 1877, and now appears as Cap. 99 of the Consolidated Statutes The repeal is noted on page 1009 of the Consolidated Statutes.

At the late Session of the Legislature so much of Section 17, of Cap. 99, of the Consolidated Statutes, as imposes a penalty in respect of a false declaration, was repealed.

In the Consolidated Statutes care was taken to avoid the use of the word "offence" as describing the breach of Provincial law, and in the instances in which the word had been inadvertently used, in the Acts of 1877, it will be found that in the consolidation of such Statutes, the word is omitted.

Sections 92, 93, 94, of Cap. 99, of the Consolidated Statutes, were not repealed, as it is conceived that while, perhaps, they are of doubtful policy, they are clearly within the competence of the Local Legislatures.

The Act 40 Vic., Cap 3, in which the above sections first occur, and to which objection was taken, is, however, repealed, as above stated.

Sub-sections 32 and 39, of Section 96, of Cap. 99, of the Consolidated Statutes (being the sections corresponding to Sub-section 32 and 39, of Section 96, of Cap. 3, of the Acts of 1877), were also repealed at the late Session of the Legislature.

Cap. 25.—"An Act to regulate the sale of Spirituous Liquors in the Parishes of Lancaster, Simonds and St. Martins, in the City and County of St. John.

Sections 19 and 20 (and also Section 30 of Cap. 105 of the Consolidated Statutes which was open to the same objection) was also repealed at the late Session of the Legislature.

G. E. KING,
Attorney-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 10th May, 1878.

Referring to my Report of the 22nd December last upon the Acts of the General Assembly of the Province of New Brunswick, passed in the fortieth year of Her Majesty's reign (1877), I beg to report:—

That not having received a copy of the Statutes of the past Session of the Province, and the time for the disallowance of the Acts of last year expiring on the 19th instant, a communication was sent to the Lieutenant-Governor of New Brunswick, asking what action had been taken in reference to the objections made to certain provisions of the Statutes of 1877.

The Lieutenant-Governor states that the objectionable provisions of the Acts were repealed.

I recommend that the various Statutes in question be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 22*nd May*, 1878.

On the recommendation of the Hon. the Minister of Justice, and for the reasons specified in his Report, dated 16th May, 1878, the Committee advise that the Acts of the General Assembly of the Province of New Brunswick, passed in the fortieth year of Her Majesty's reign (1877), to be left to their operation.

W. A. HIMSWORTH,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor of New Brunswick.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 23rd May, 1878.

SIR,—I have the honor to transmit to you herewith, for the information of your Government, a copy of an Order in Council, dated 22nd inst., together with a copy of the Report of the Hon. the Minister of Justice, therein referred to, upon the Acts of the General Assembly of the Province of New Brunswick, passed in the fortieth year of Her Majesty's Reign (1877), the same to be left to their operation.

I have, &c.,

R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

NEW BRUNSWICK, 41ST VICTORIA, 1877.

4TH SESSION—23RD GENERAL ASSEMBLY.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 13th October, 1877.

SIR,—I have the honor to transmit, herewith, a certified copy, in manuscript, of the Acts passed at a short Session of the Legislature, held in August and September last.

I did not consider it advisable to suspend the publication of the Statutes, now nearly completed, with a view to having these Acts printed before transmission, inasmuch as they were chiefly of a local nature; but at an early day the usual number of printed copies will be duly forwarded to you.

I have, &c.,

S. L. TILLEY,

Lieutenant-Governor.

The Hon.
The Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th September, 1878.

I have the honor to report upon the Acts passed by the General Assembly of the Province of New Brunswick, at the Special Session, in the months of August and September, 1877.

This Session appears to have been rendered necessary by the great fire at St. John, in the month of June previous.

The Acts passed are, Caps. 1 to 23, inclusive.

With the exception of certain provisions of the 4th Section of Cap. 8, which is intituled: "An Act to define and establish the Side lines of Streets in the City of St. John, and to prevent encroachments on the Public Streets," all the other Acts appear unobjectionable, and I recommend that they be left to their operation.

With reference to the section referred to, however, I would remark that it appears to entrench upon Criminal Law, inasmuch as the section declares that every erection, building, porch, stoop, step, encumbrance or obstruction whatsoever, being upon any of the streets referred to in the Act, or upon or over the side line of any of the streets, is to be, and upon the passing of the Act, is to become, a public nuisance.

Although it is within the competence of the Local Legislature to define the sides and limits of a public street in the Province, yet it seems clear that it is not within their competence to declare that an encroachment upon that street is to be a public nuisance.

It is laid down, that there can be no doubt, "that any contracting or narrowing of a public highway is a nuisance," and that "an obstruction in any part is the subject of indictment." (Russell, on Crimes, Book 2, Cap. 30, Section 2.)

It is clear that a public nuisance is properly punishable by indictment, and is not the subject of a civil action, unless the person suing civilly has sustained some extraordinary damage by it, beyond that sustained by the rest of the public.

I do not propose to recommend the disallowance of this Act on account of the provision referred to, but as it is desirable that all provisions of Provincial Statutes should be within the competence of the Provincial Legislature, I recommend that the attention of the Lieutenant-Governor be called to these remarks with the suggestion that at the next Session, his Government should promote the necessary Legislation to repeal the objectionable parts of the section, and that the words, "made a public nuisance by this Act," contained in the 5th Section, should be struck out and other suitable words inserted.

It will be seen that, even if no provision be made declaring the obstruction a nuisance, it would be, by Common Law, a nuisance and so indictable.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 28th September,* 1878.

On the recommendation of the Honorable the Minister of Justice, and for other reasons stated in his Report, dated 27th September, 1878, the Committee advise that the Acts passed by the General Assembly, of the Province of New Brunswick, at the Special Session, in the months of August and September, 1877, being Chapters 1 to 23, inclusive, be left to their operation, and the attention of the Lieutenant-Governor be called to the remarks and suggestions contained in said Report.

W. A. HIMSWORTH,
Clerk Privy Council.

NEW BRUNSWICK, 41ST VICTORIA, 1878.

5TH SESSION—23RD GENERAL ASSEMBLY.

Lieutenant-Governor Tilley to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, 4th May, 1878.

SIR,—I have the honor to transmit to you herewith, in advance of the General Acts passed at the last Session of the Legislature of this Province, a manuscript copy of an Act intituled: "An Act to incorporate the St. John and Maine Railway Company, Cap. 92."

I do this at the request of the representative of the bondholders of "The European and North American Railway" westward, as that railway is soon to be sold under a foreclosure of mortgage, and the bondholders who are likely to be the purchasers, naturally desire that the question of the constitutionality of the recent Legislation should be settled. Mr. Murray Kay, the representative of the bondholders, is now on his way to Ottawa to confer with the Honorable the Minister of Justice.

The following is a copy of the Attorney-General's certificate on the Acts, and which refers to the Act above alluded to.

"I certify that these Acts are within the competency of the Legislature of the Province. The title of the Bill intituled: "An Act to incorporate the St. John and Maine Railway Company" is objectionable, as seeming to show that the line of railway extends beyond the limits of the Province, but on the whole I am of opinion that the Act is a proper one to be assented to.

(Signed) "G. E. KING.

"April 18th, 1878."

I have, &c.,

S. L. TILLEY,

Lieutenant-Governor.

The Hon. Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th June, 1878.

I have the honor to report upon an Act passed by the Legislative Assembly of the Province of New Brunswick at its last Session (assented to on 18th April, 1878) intituled: "An Act to incorporate the St. John and Maine Railway Company" which Act was transmitted by the Lieutenant-Governor in advance of the general Acts of the Session, in order that the same might be considered at an early day. Having carefully examined the Act, and having considered in connection therewith, the Act, of the Province of New Brunswick before Confederation, passed in the year 1864, Cap. 43, and intituled: "An Act to incorporate the European and North American Railway Company for extension from St. John westward," and the Act of the Parliament of Canada passed in the year 1875, Cap. 71, I am of opinion that it is a proper Act to leave to its operation, and I recommend accordingly. The title is somewhat objectionable, as indicating that the railway may extend beyond the Province and into the State of Maine; as a matter of fact, however, the line is to be within the Province, and as the title of the Company is a convenient one, as indicating the two termini of the line, the power of disallowance should not, I think, be exercised on this account merely.

Z. A. LASH,

Deputy Minister of Justice.

I concur.

R. W. SCOTT,

Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd July,* 1878.

On a Report, dated 20th June, 1878, from the Hon. Mr. Scott, acting in the absence of the Minister of Justice, stating that an Act was passed by the Legislative

Assembly of the Province of New Brunswick at its last Session (assented to on 18th April, 1878), intituled: "An Act to incorporate the St. John and Maine Railway Company," which Act was transmitted by the Lieutenant-Governor in advance of the General Acts of the Session, in order that the same might be considered at an early day;

That having carefully examined the Act, and having considered, in connection therewith, the Act of the Province of New Brunswick before Confederation, passed in the year 1864, Cap. 43, and intituled: "An Act to incorporate the European and North American Railway Company for extension from St. John westward," and the Act of the Parliament of Canada passed in the year 1875, Cap. 71, he is of opinion that it is a proper Act to leave to its operation, and he recommends accordingly.

That the title is somewhat objectionable, as indicating that the railway may extend beyond the Province and into the State of Maine, that as a matter of fact, however, the line is to be within the Province, and that as the title of the Company is a convenient one as indicating the two termini of the line, the power of disallowance should not he thinks be exercised on this account merely.

The Committee advise that the Act be left to its operation.

W. A. HIMSWORTH,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor Tilley.

DEPARTMENT OF SECRETARY OF STATE, 10th July, 1878.

SIR,—Referring to your Despatch of the 4th May last, I have the honor to acquaint you, for the information of your Government, that His Excellency the Governor General in Council has been pleased to order that the Act therein enclosed passed by the Legislature of the Province of New Brunswick at its last Session, assented to on the 18th April, 1878, intituled: "An Act to incorporate the St. John and Maine Railway Company," be left to its operation.

I have, &c.,
R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Mr. Under Secretary Langevin to Lieutenant-Governor Tilley.

DEPARTMENT OF SECRETARY OF STATE, 22nd August, 1879.

SIR,—I am directed to call attention to your letter of the 26th June last, transmitting the papers connected with the memorial of certain debenture holders, praying for the disallowance of the Act to amend an Act incorporating the New Brunswick and Canada Railway Company, and in which you stated that the memorial had been referred to your Attorney-General for report, and that he requested that action by this Government might be suspended until he, the Attorney-General, had sent in his Report, and request that, as this Report has not yet come to hand, that

you will be pleased to take the necessary steps for sending the Report in question at an early date.

I have, &c.,

E. J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd October, 1879.

I have the honor to report upon the Acts passed by the Legislature of New Brunswick in the month of April, 1878, received by this Government on the 22nd day of March, 1879, as follows:—

Cap. 24.—"An Act to constitute a certain part of the Town of Portland into a separate ward, to be called the Fifth Ward."

Cap. 25.—"An Act to provide for defraying certain expenses of the Civil Government of the Province."

Cap. 26.—"An Act to provide for the repair and improvement of roads and bridges, and other Public Works and Services."

Cap. 27.—"An Act in amendment of the law of evidence."

Cap. 28.—"An Act to remove doubts, relating to marriages in certain cases.

Cap. 29.—"An Act to alter the time of holding the Circuit Court in and for the County of Sunbury."

Cap. 30.—"An Act to amend the law referring to Courts of Probate."

Cap. 31.—"An Act to amend Cap. 59 of the Consolidated Statutes of Parish Courts."

Cap. 32.—"An Act relating to the Parish Court of the Parish of Newcastle, in the County of Northumberland."

Cap. 33.—"An Act relating to fees to constables in civil suits before Justices."

Cap. 34.—"An Act to amend Cap. 64 of the Consolidated Statutes."

Cap. 35.—"An Act relating to the constitution of Boards of School Trustees in Cities and Incorporated Towns, and in amendment of and in addition to the law relating to Schools."

Cap. 36.—"An Act in further amendment of Cap. 4 of the Consolidated Statutes."

Cap. 37.—"An Act to amend Cap. 102 of the Consolidated Statutes relating to settlement of the poor."

Cap. 38.—"An Act relating to County Councillors and Revisors."

Cap. 39.—"An Act to empower County Councils to grant relief in certain cases of over assessment."

Cap. 40.—"An Act relating to compensation for lands taken for Railway purposes."

Cap. 41.—"An Act in addition to Cap. 75 of the Consolidated Statutes, relating to the Registry of Bills of Sale."

Cap. 42.—"An Act relating to the apprenticing of Immigrant Children having no parent within the Province."

Cap. 43.—"An Act in amendment of Cap. 98 of the Consolidated Statutes of Corporations."

Cap. 44.—"An Act to amend Cap. 22 of the Consolidated Statutes of Dangerous Lunatics."

Cap. 45.—"An Act for the protection of certain birds and animals."

Cap. 46.—" An Act to make provision for the redemption of Provincial Debentures."

I recommend that the above Acts be left to their operation.

Cap. 47.—" An Act in addition to Cap. 105 of the Consolidated Statutes, of Licenses for sale of Spirituous Liquors and to repeal certain sections of the Act 40th Vic., Cap. 25."

Cap. 48.—" An Act in addition to an Act, intituled: 'An Act relating to Licenses in the City of Saint John,' being in addition to and amendment of an Act to regulate the sale of Spirituous Liquors in the City and County of Saint John."

Cap. 49.—" An Act in reference to the sale of Spirituous Liquors within the Town of Moncton."

As these Acts deal with licenses for the sale of spirituous liquors, and as the question of how far such Legislation is an interference with the regulation of Trade and Commerce is still undecided, I think it proper in recommending that the Acts be left to their operation to refer merely to the doubt which exists upon the subject."

Cap. 50.—" An Act to incorporate the Chatham Driving Park Association."

Cap. 51.—" An Act to incorporate the Chatham Dutcher Temperance Reformers Temple Company."

Cap. 52.—" An Act to amend the Act 38 Vic., Cap. 141, intituled: 'An Act to incorporate the New Brunswick Oddfellows Hall Company.'"

Cap. 53.—" An Act to incorporate the Mount Pleasant Hotel Company."

Cap. 54.—" An Act to alter and in addition to an Act intituled: 'An Act to incorporate the Saint John Gas Light Company' and to authorize the said Company to issue Debentures."

Cap. 55.—" An Act to incorporate the Trustees of the Saint John Temperance Reform Club."

Cap. 56.—" An Act to change the name of 'The Trustees of the Marsh Bridge Baptist Chapel' in the City of Saint John, to that of the Trustees of the Leinster Street Baptist Church in the City of Saint John, and for other purposes."

Cap. 57.—" An Act to amend an Act intituled: 'An Act to incorporate the Highland Park Company.'"

Cap. 58.—" An Act to incorporate the Hillsborough Masonic Hall Company."

Cap. 59.—" An Act to amend an Act intituled: 'An Act to incorporate the Saint John Academy of Music Company,' and to authorize the sale of the lands of the said Company and to facilitate the winding up of its affairs."

Cap. 60.—" An Act to incorporate the York and Carleton Steamboat Company."

Cap. 61.—" An Act to incorporate the Saint John Relief and Aid Society."

Cap. 62.—" An Act to incorporate the Saint John Law Society."

Cap. 63.—" An Act to authorize an Assessment on the Fire District of Chatham, County of Northumberland, for fire purposes."

Cap. 64.—" An Act to define the northern side line of Queen's Square in the City of Saint John."

Cap. 65.—" An Act to enable the inhabitants of Saint Mary's Village in the Parish of Saint Mary, in the County of York, to assess themselves for protection against fires, and for procuring a supply of water."

Cap. 66.—" An Act to authorize the School Trustees in School District No. 2, in the Parish of Newcastle, Northumberland County, to sell a certain lot of land."

Cap. 67.—" An Act to authorize and empower the County Council of the Municipality of the County of York to issue Debentures, to take up other certain Debentures."

Cap. 68.—" An Act to declare certain lands situate in the Parish of Welford, in the County of Kent, vested in the Trustees of Saint Andrew's Church, Richibucto, in connection with 'The Presbyterian Church in Canada,' and to authorize the said Trustees to lease or to sell and dispose of the said lands, and to appropriate or invest the proceeds as they may deem advisable for the use and benefit of the said Church."

Cap. 69.—" An Act to enable the City Corporation of Saint John to purchase improvements on City lands."

Cap. 70.—"An Act to authorize the Municipality of York to sell and dispose of certain lands in the Parish of Canterbury, in the County of York."

Cap. 71.—"An Act to authorize the County Council of the Municipality of Carleton to aid in the relief of persons rendered destitute by the Saint John Fire."

Cap. 72.—"An Act relating to the Fire Department of the City of St. John."

Cap. 73.—"An Act to authorize the sale of certain Church Lands in the Parish of Canterbury."

Cap. 74.—"An Act further to amend an Act to incorporate certain districts of the Parish of St. Stephen, in the County of Charlotte, to be known as the Town of St. Stephen."

Cap. 75.—"An Act relating to highways in the Parishes of Simonds, St. Martin's, Lancaster and Musquash, in the City and County of the City of St. John."

Cap. 76.—"An Act to authorize the erection of a telephone between Newcastle and Indiantown, in Northumberland County."

Cap. 77.—"An Act to authorize the County Council of Madawaska to exempt capital invested, during the next ten years in the County of Madawaska, in mills and factories, from taxation."

Cap. 78.—"An Act to authorize the Municipal Council of King's County to exempt Banking institutions from taxation within the County of King's for a certain period."

Cap. 79.—"An Act to authorize and empower the Rector, Churchwardens and Vestry of Christ Church in the Parish of Fredericton, to sell certain lands."

Cap. 80.—"An Act in further amendment of the law relating to the levying and assessing of rates and taxes in the City of St. John."

Cap. 81.—"An Act to authorize the revisors of electors for the Parish of Acadieville, in the County of Kent, to make a list of electors for that parish for the year A. D. 1878."

Cap. 82.—"An Act to amend the Act incorporating the Town of Moncton, in reference to the collection of taxes."

Cap. 83.—"An Act relating to the Old Public Burial Ground in Carleton Ward, in the City of Fredericton."

Cap. 84.—"An Act to enable the Trustees of the Germain Street Baptist Chapel, in the City of St. John, to mortgage certain property and for other purposes."

Cap. 85.—"An Act relating to Assessment and to Fire investigation in the City of Fredericton."

Cap. 86.—"An Act to enable the Town of Moncton to contract with the Moncton Gas Light and Water Company for water and gas for a term of years."

Cap. 87.—"An Act relating to the Electoral lists for the County of Madawaska."

Cap. 88.—"An Act to authorize the Town of Moncton to raise money by way of loan for the construction of public buildings, and to aid in the construction of sewers in the town."

Cap. 89.—"An Act in further amendment of the law for the better prevention of conflagrations in the City of St. John."

Cap. 90.—"An Act to authorize the City of Fredericton to issue debentures to take up certain other debentures."

Cap. 91.—"An Act to amend an Act, intituled: 'An Act to authorize the erection of a boom across the Jacquet River in the County of Restigouche.'"

I recommend that the above Acts be left to their operation.

Cap. 92.—"An Act to incorporate the St. John and Marine Railway Company."

This Act was received in advance of the others and has already, by Order in Council, dated 2nd July, 1875, been left to its operation.

Cap. 93.—"An Act to revive, continue and amend an Act to incorporate the Caraquet Railway Company."

Cap. 94.—"An Act to incorporate the Albert Southern Railway Company."

Cap. 95.—"An Act to revive and continue and amend an Act made and passed in the thirty-seventh year of Her Majesty's reign, intituled: 'An Act to incorporate the Northern Railway Company.'"

Cap. 96.—"An Act to amend an Act to incorporate the New Brunswick and Canada Railway Company."

Cap. 97.—"An Act to revive and continue an Act to incorporate the New Brunswick and Prince Edward Island Railway Company."

Cap. 98.—"An Act to incorporate the Harvey Branch Railway Company."

Cap. 99.—"An Act to incorporate the St. Andrew's and Ste. Croix Railway Company."

Cap. 100.—"An Act to continue the several Acts relating to the St. Martin's and Upham Railway."

Cap. 101.—"An Act to amend an Act intituled: 'An Act to incorporate the Peticodiac and Elgin Branch Railway Company.'"

Cap. 102.—"An Act to provide for the erection of an Almshouse and Workhouse in the Parish of Bathurst, Gloucester County."

Cap. 103.—"An Act in addition to an Act intituled: 'An Act to provide for rebuilding and replacing Public Property destroyed by the recent disastrous fire in the City of St. John.'"

Cap. 104.—"An Act relating to the Common Gaol for the County of Madawaska."

Cap. 105.—"An Act in addition to the law relating to Civic Elections in the City of St. John."

Cap. 106.—"An Act to establish a Board of Health for the Town of Moncton."

Cap. 107.—"An Act in addition to an Act intituled: 'An Act to authorize the extension of St. John Street from Duke Street to Reed's Point Wharf, in the City of St. John, on the eastern side of the harbor, and to provide for a Salvage Corps.'"

Cap. 108.—"An Act to fix the salary of the Police Magistrate of the Town of Portland."

Cap. 109.—An Act for the further extension of Canterbury Street, in the City of St. John."

Cap. 110.—"An Act to authorize the City Council of Fredericton to assess for Agricultural purposes."

Cap. 111.—"An Act to alter and amend 34th Vic., Cap. 11, intituled: 'An Act to incorporate the Town of Portland so far as the same relates to Indiantown Ferries.'"

Cap. 112.—"An Act relating to polling Places in the Province."

Cap. 113.—"An Act to authorize James E. Whittaker, Trustee under the last will and testament of Charles Whittaker, deceased, to convey a certain lot of land situate and fronting on the south side of King Street in the City of St. John, by way of mortgage, to secure the payment of certain moneys loaned to him for the purpose of erecting buildings thereon."

I recommend that these Acts be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 28th October,* 1879.

On a Report, dated 22nd October, 1879, from the Hon. the Minister of Justice, upon certain Acts from Cap. 24 to Cap. 113, passed by the Legislature of the Province of New Brunswick, in the month of April, 1878, and received by this Government on the 22nd day of March, 1879.

On the recommendation of the Minister of Justice, the Committee advise that the Acts reported on be left to their operation.

J. O. COTÉ,
Assistant Clerk Privy Council.

Secretary of State to Lieutenant-Governor New Brunswick.

OTTAWA, 4th November, 1879.

SIR,—I have the honor to transmit you herewith, for the information of your Government, a copy of an Order in Council dated 28th ultimo, together with a copy of a Report of the Honorable the Minister of Justice therein referred to, upon the Acts from Cap. 24 to Cap. 113, passed by the Legislature of the Province of New Brunswick in the month of September, 1878, and received by this Government on the 22nd March, 1879, the same to be left to their operation.

I have, &c.,

(Signed) J. C. AIKINS,
Secretary of State.

His Honor
The Lieutenant-Governor of New Brunswick,

—

NEW BRUNSWICK, 42ND VICTORIA, 1879.

1ST SESSION—24TH GENERAL ASSEMBLY.

Lieutenant-Governor Chandler to Secretary of State.

GOVERNMENT HOUSE, FREDERICTON, N.B., 17th April, 1879.

SIR,—I have the honor to transmit herewith, for the consideration of His Excellency the Governor General in Council, a copy of a Minute of my Executive Council, approved of by me this day on the subject of making provisions for the salary of a Judge in Equity, together with copies of the Acts passed at the recent Session of the Legislature referred to in the said Minute of Council.

I have, &c.,

ED. B. CHANDLER,
Lieutenant-Governor.

The Honorable
The Secretary of State, Ottawa.

Copy of Minute in Council.

17th April, 1879.

Present:

HIS HONOR THE LIEUTENANT-GOVERNOR IN COUNCIL.

Upon the recommendation of the Hon. the Attorney-General, ordered, that copies of the Acts passed at the Session of the Legislature, just closed, severally intituled: "An Act relating to the Supreme Court," and "An Act to facilitate the transaction of the business of the Supreme Court," be transmitted to the Secretary of State, Ottawa, and that the Dominion Government be respectfully requested to make provision for the salary of the Judge in Equity, to be appointed on the bringing into force of the first mentioned Act.

F. A. H. STRATON,
Clerk Executive Council.

Mr. Jno. Jas. Fraser to Minister of Justice.

FREDERICTON, 28th April, 1879.

SIR,—At the last Session of the New Brunswick Legislature there was passed, *inter alia*, "An Act relating to the Supreme Court," and "An Act to facilitate the transaction of the business of the Supreme Court."

These Acts have been transmitted to the Hon. the Secretary of State at Ottawa, together with a copy of an Order, passed by His Honor the Lieutenant-Governor in Council, requesting that the Dominion Government would cause provision to be made for the salary of the Judge in Equity, to be appointed on the coming into force of the first mentioned Act.

In view of the legislation thus had, it may be proper that I should bring under your notice, the state of matters which rendered such Legislation necessary.

Up to the year 1872, although the business of the Supreme Court, *en banc*, was slightly in arrear, yet no serious inconvenience was thereby caused to suitors, but in that year, quite a block commenced, which has since been constantly on the increase, and for the last two years, it has been felt that some measure of relief must be obtained, and the manifest injustice to suitors, which had become matters of serious and just complaint, be removed if possible.

The Judges sitting during the four terms of Hilary, Easter, Trinity and Michaelmas, have, during the last few years, occupied fully three weeks for each term. There are also eleven monthly sittings in Equity, held at Fredericton, generally occupying from one to two weeks each for hearings in Equity, besides which the Equity side of the Supreme Court is always open for the transaction of other Equity business.

Of the twenty-six Circuit Courts held each year in the various Counties of the Province, no less than five of these Circuits are held in St. John, and the number of days of Circuit sittings, in St. John, has, for some years past, averaged about one hundred days in the year, notwithstanding which there are large arrears of entries on the St. John dockets.

Looking at the above as well as at the other business which the Judges are called upon to perform at Chambers; also, the matter of election petitions and otherwise, it may readily be admitted that it is from the vast amount of labor to be done, and not from any want of full attention to the diligent discharge of their duty on the part of the Judges, that the present state of matters exist.

A remedy for this condition of the Court business, has for a year or so past, been much discussed by the members of the Bar and by the Barristers' Society, and Committees have been appointed to confer with the Local Government on the subject.

This led to the drafting of a Bill prior to the Session of 1878, one of the provisions of which Bill was the creation of an additional Judge, but, owing to various circumstances, the measure was not matured so as to ask the Legislature for its then enactment. The necessity for some action was, however, fully conceded, and it was generally understood that another Session of the Legislature should not be allowed to pass without some action being taken.

During the last summer, the whole subject of the state of business in the Supreme Court was carefully considered by the Government, and at Hilary term last, and before the opening of the late Session of the Legislature, a Committee of the Barristers' Society was appointed again to consider the whole question, which Committee made full reports that were discussed at length by the Society, and resolutions were adopted favoring the appointment of an additional Judge, and approving of a proposal to have the Court sit in two Divisions as the only means of bringing up the arrears of business and preventing any future block.

The Reports of the Committee, with the resolutions, were laid before the Government for their consideration.

Bills, of which the present Acts are copies, where then prepared, embodying such suggestions of the Barristers' Society, and members of the Bar, as were thought would be most likely to afford the best means to advance the Administration of Justice in the Supreme Court.

It was found that the Court at the then Hilary Term would commence with business which was entered for argument in the Hilary Term previous, and which business, if there had been no arrearages, ought to and would have been then heard and disposed of. In addition to which, from the great pressure upon the time of the Judges, and from their desire to reduce the number of unheard causes standing upon the docket, the Court were obliged to hold, term after term, the preparation of judgments in causes which had been heard.

Besides this, in important Equity causes, for the same reasons, the delivery of judgments was unavoidably withheld for a very great length of time, to the serious prejudice of suitors.

By the creation, as proposed, of a Judge in Equity, who should also be a Judge of the Supreme Court, but not required to attend Circuits, and whose peculiar duty it would be to attend to Equity causes, the business in Equity can be more promptly and efficiently attended to, and the practice of the Court become more unifom and certain, than was found to be the case when the several Judges took the Equity sittings alternately, and the addition of this Judge also makes practicable Divisional sitting of the Supreme Court, for the disposition of the business *en banc*, thus enabling the Court to overtake the arrearages, and be the means of preventing the recurrence of any future undue accumulation of business.

I may add that both Acts, before their introduction into the Assembly, were submitted to the Chief Justice, and some other of the Judges, who approved both measures, and expressed a strong opinion that they would effect the object sought to be attained.

I have, &c.,

JNO. JAS. FRASER.

The Hon. James McDonald,
Minister of Justice, Ottawa.

Mr. D. L. Hannington to Governor General's Secretary.

Dorchester, N. B., 8th July, 1879.

Dear Sir,—On behalf of E. P. Turner, of Harvey, in Albert Co., N. B., I now forward you, for His Excellency the Governor General's approval, a Petition against an Act of our Legislature, passed last Session.

You will please bring the matter before His Excellency that it may receive consideration, as it is a very important matter to Mr. Turner and oppressive Legislation against him.

I remain, your obedient servant,

D. L. HANNINGTON.

To Major DE WINTON,
Governor General's Secretary.

Petition of Mr. E. P. Turner.

To His Excellency Sir John Douglas Campbell (commonly called the Marquis of Lorne), Knight, and Governor General of Canada.

The Petition of Elisha P. Turner, of Harvey, in the County of Albert, in the Province of New Brunswick, humbly sheweth:—

1. That in or about the year 1861 an assessment was professedly made by Michael Keever and others as Commissioners, German Town Lake District, in the said County of Albert, by which an amount of about $1,200 was ordered to be paid by myself, and your petitioner being dissatisfied therewith, took the usual proceedings in the Supreme Court of this Province, to have said assessment set aside and quashed, which, after long argument, was done by a Judgment of said Court *re* Regina *vs.* the Commissioners of German Town Lake District, published in the 1st Vol. of Hanney's Report (to which your petitioner would beg leave to refer), on the ground, among others, that the said Commissioners were and had acted in said assessment and work, as Judges in a matter in which they were personnally and pecuniarily interested.

2. That afterwards the said Michael Keever, and others interested in said assessment, applied to the Legislature of the Province, from time to time, to legalize the same, in which they failed.

3. That in the year 1873, 36th Vic., Cap. 79, an Act of the Legislature of this Province was passed authorizing the appointment of Commissioners to ascertain, fix and determine the amount due or to be paid by the owners of said District (and your petitioner would refer Your Honor to said Act), and Section 2nd thereof provides that the said Commissioners shall, in such assessment, have due regard (among other things) and "take into consideration and allow such amount for improvements at any one time therefor, made by any proprietor or owner of land in said district, and for any labor or money he may have expended in cutting, making, repairing or maintaining any canal or dyke made in said district, and for any legal, taxable costs incurred by any Commissioner or proprietor by litigation in reference to said district, as they may consider just and reasonable."

4. That your Petitioner had long before constructed, and thus had a canal and other very expensive works amounting to the cost of several thousand dollars in said lands, and of benefit to others besides himself, and had also expended a large amount in taxable costs in reference to the matters mentioned in said section, and which should have been ascertained and taken into consideration by Commissioners under said Act.

5. That the Honorable Amos E. Botsford, Amos Ogden and Martin Trueman were, in or about the year 1874, appointed Commissioners under said Act, and, in July of the year 1874, went to the County of Albert, and on the day, or day before, they went on the marsh to hold the examination thereof; on the public road, one mile from the marsh in question, met your Petitioner, who was then on his way under subpœna to attend the Circuit Court as a grand juror, and told him they were going to said district to enquire; to which your Petitioner told them where he was going, that he could not recognize them as Commissioners, but would be glad to see them as private individuals; and your Petitioner at once, on arriving at Court, consulted his Counsel about said matters, and was advised by them that the Commissioners would

hold an enquiry and would doubtless notify him of the time and place, and for your Petitioner to attend and protest against their power, but to give evidence of the facts, and your Petitioner claims for his canal and other works and expenditure referred to in said last mentioned Act, which your Petitioner intended to do, but never received any notice of any Court or enquiry, nor had any notice (except the conversation on the road aforesaid, which was only general as aforesaid) of any enquiry or investigation of the matter until it was all over, as your Petitioner believes.

6. That afterwards the said Commissioners made an assessment, or professed to do so in the matter, and assessed against your Petitioner the sum of seven hundred and sixty-nine dollars and eighty-nine cents ($769.89), which was done without any evidence taken on oath, nor was any proper or sufficient notice to your Petitioner, nor a fair opportunity given for the proof of his claims, or the taxation of his costs, which costs had to be taxed at Fredericton by the Clerk of the Superior Court, some two hundred miles from where the enquiry took place.

7. That the said assessment so made as last aforesaid, was made without any sworn evidence, or any proper Court of enquiry held, or notice to your Petitioner and others interested being given—and upon the statements not under oath of said Michael Keever and others made *ex parte*, and no proof of your Petitioner's expenditure, under the terms of said Act of 1873, and is most unjust to year Petitioner.

8. That your Petitioner took proceedings in the fall of the year 1876. When the sale of his property was attempted to be made, and on the arguments and affidavits by the Commissioners and others, and cause shown on behalf of said Commissioners and in support of the assessment, and the above grounds (among others) urged against the said Commissioners, the Supreme Court of this Province made the rule for *certiorari* absolute, whereupon a return was made, during the last few months. by the Commissioners *pro forma*, a rule to quash the same would issue.

9. That the said last mentioned assessment was, and is, illegal and void, as you Petitioner is advised and believes, and as he is informed, the Court virtually decided, not on mere formal or technical grounds, but on the merits, and because no proper notice was given to your Petitioner, nor any proper enquiry held or evidence on oath given.

10. That, during the last Session of the Legislature, a Bill, intituled : " An Act to legalize the assessment made by the Honorable Amos E. Botsford, Amos Ogden and Martin Trueman, the Commissioners appointed under Cap. 79, 36 Vic., to ascertain, fix and assess, for the amount due to the Commissioners of German Town Lake, appointed under Act 22 Vic., Cap. 53, was introduced, and, though disapproved by the Hon. the Attorney-General and others, on the ground that it was improper Legislation, a majority voted therefor, and it was carried, also, in the Legislative Council, notwithstanding the papers and facts submitted proved that no proper enquiry was held, or notice given, by the said Commissioners."

11. That, as your Petitioner believes, the said Act, so passed this past Session, is unjust, illegal and oppressive, and seeks to enforce a claim against your Petitioner that is illegal and unjust, and your Petitioner, therefore, prays that the same may be disallowed by Your Excellency, and the parties left to a new assessment, or a proper enquiry, or other legal remedy, as if said Act be allowed, it will cause a great injury and wrong to your Petitioner, as he verily believes.

And your Petitioner, as in duty bound, will ever pray.

ELISHA P. TURNER.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 18th July, 1879.

I transfer to the Secretary of State a Petition of Elisha P. Turner, against an Act passed by the Legislature of New Brunswick at its last Session, and recommend

that a copy of the same be transmitted to the Government of New Brunswick, with a request that the same may be communicated to those who are interested in supporting the Act, for such remarks as they may think proper to make, and that the Government of New Brunswick be invited to make such remarks as they may think proper.

A. POWER,
For Deputy Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th November, 1881.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon the Statutes passed by the Legislature of the Province of New Brunswick, in the forty-second year of Her Majesty's reign, received by the Secretary of State on the 11th December, 1880, as follows:—

Cap. 1.—"An Act to provide for defraying certain Expenses of the Civil Government of the Province."

Cap. 2.—"An Act to provide for the repair and improvement of Roads and Bridges and other Public Works and Services."

Cap. 3.—"An Act relating to the indemnity to Members of the Legislature, and the salaries of the President of the Legislative Council and Speaker of the House of Assembly."

Cap. 4.—"An Act relating to free grants of Crown Lands."

Cap. 5.—"An Act in amendment of Cap. 13 of the Consolidated Statutes, of 'Trespasses to Lands and other Property of the Crown.'"

Cap. 6.—"An Act in amendment of Cap. 65 of the Consolidated Statutes of 'Schools.'"

Cap. 7.—"An Act relating to the Supreme Court."

Cap. 8.—"An Act to facilitate the transaction of the Business of the Supreme Court."

Cap. 9.—"An Act relating to the office of Solicitor General."

Cap. 10.—An Act relating to certain Fees in the several County Courts in this Province."

Cap. 11.—"An Act to alter the time for holding the June Term of the County Court in the County of Albert."

Cap. 12.—"An Act to amend Cap. 59 of the Consolidated Statutes of Parish Courts."

Cap. 13.—"An Act relating to the procedure in the Courts of Stipendiary Magistrates, Parish Court Commissioners and Justices of the Peace."

Cap. 14.—"An Act relating to Revisors, and to amend Cap. 4 of the Consolidated Statutes of Elections to the General Assembly."

Cap. 15.—"An Act to amend Cap. 4 of the Consolidated Statutes of Elections to the General Assembly so far as relates to the County of York."

Cap. 16.—"An Act to provide for Simultaneous Elections in the Province."

Cap. 17.—"An Act in addition to Cap. 99 of the Consolidated Statutes of Municipalities."

Cap. 18.—"An Act to amend the Law relating to Municipalities."

Cap. 19.—"An Act to amend Cap. 113 of the Consolidated Statutes, of the destruction of Bears."

Cap. 20.—"An Act to amend an Act intituled: 'An Act for the protection of certain Birds and Animals."

Cap. 21.—"An Act to amend Cap. 103 of the Consolidated Statutes, of Bastards."

Cap. 22.—"An Act to amend an Act intituled: 'An Act to incorporate the Dalhousie Branch Railway Company."

Cap. 23.—"An Act to further continue the several Acts relating to the Saint Martin's and Upham Railway."

Cap. 24.—"An Act to continue the time for the construction of the Elgin, Petitcodiac and Havelock Railway."

Cap. 25.—"An Act to consolidate and amend certain Acts incorporating and relating to the Saint John Protestant Orphan Asylum."

Cap. 26.—"An Act to incorporate the Sisters of Charity of the Diocese of Saint John, N.B."

Cap. 27.—"An Act to incorporate the Reformed Presbyterian Church in the Province of New Brunswick, in connection with the General Synod of the Reformed Presbyterian Church in North America."

Cap. 28.—"An Act to amend an Act intituled: 'An Act to incorporate the York and Carleton Steamboat Company.'"

The above Acts do not seem to call for any special remarks, or for the exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 29.—"An Act to incorporate the Sheer Boom Improvement Company."

Cap. 30.—"An Act to incorporate the Restigouche Boom Company."

These Acts incorporate Companies for the purpose of constructing booms on certain streams in the Province to facilitate the driving of timber and logs. The Legislative authority of the Provincial Legislatures over the subject matter of these Acts is not entirely free from doubt, inasmuch as the subject is necessarily closely allied to that of navigation over which the Parliament of Canada has exclusive Legislative authority. Inasmuch, however, as Provincial Legislation of a similar nature has frequently been allowed to go into operation since Confederation, and as the Companies do not in law acquire by these Acts any power to interfere with the navigation of such rivers or parts of rivers as are navigable, the undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

The undersigned, however, recommends that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 31.—"An Act to incorporate the New Brunswick Sugar Refining Company."

Cap. 32.—"An Act to incorporate the Saint John Club."

Cap. 33.—"An Act to consolidate and amend the laws now in force relating to Saint Andrew's Church in the City of Saint John, and for incorporating certain persons Trustees of the said Church."

Cap. 34.—"An Act to authorize the Rector, Churchwardens and Vestry of Trinity Church, in the Parish of Canning, Queen's County, to change the locality of their Parish Church."

Cap. 35.—"An Act to amend an Act intituled: 'An Act to incorporate the Moosepath Driving Park Association.'"

Cap. 36.—"An Act in amendment of Cap. 115 of the Consolidated Statutes, of Sewers and Marsh Lands."

Cap. 37.—"An Act to erect part of the Parish of Northesk, in the County of Northumberland, into a separate Parish."

Cap. 38.—"An Act to repeal an Act intituled: 'An Act to amend an Act for establishing and maintaining a Police Force in the Town of Chatham, in the County of Northumberland' and to make other provisions in lieu thereof."

Cap. 39.—"An Act to amend an Act intituled: 'An Act to provide more effectually for repairing the Roads, Streets and Bridges in a part of the Parish of Chatham in the County of Northumberland.'"

Cap. 40.—"An Act to amend Cap. 68 of the Consolidated Statutes, of Highways; as far as relates to certain Districts in the Parish of Sussex."

Cap. 41.—"An Act relating to the Administration of Justice in the County of York."

Cap. 42.—"An Act to erect part of the Parish of Canterbury, in the County of York, into a separate Parish."

Cap. 43.—"An Act relating to Collectors of Rates and Constables in York County."

Cap. 44.—"An Act relating to assessment in the City of Fredericton for Exhibition Debentures."

Cap. 45.—"An Act further to authorize the City of Fredericton to raise money by issue of Debentures towards the permanent Exhibition Building in said City."

Cap. 46.—"An Act to amend an Act made and passed in the forty-first year of Her Majesty's reign, intituled: 'An Act to define and establish the side lines of streets in the City of Saint John, and to prevent encroachments on the public streets."

Cap. 47.—"An Act to amend Cap. 100 of the Consolidated Statutes, title 'Rates and Taxes,' in respect of the Parishes of Simonds, Saint Martin's, Lancaster and Musquash, in the City and County of Saint John."

Cap. 48.—"An Act relating to Rates and Taxes in the City and County of Saint John."

Cap. 49.—"An Act in further amendment of the law relating to the levying, assessing and collecting of Rates and Taxes in the City of Saint John."

Cap. 50.—"An Act to authorize the sale of lands purchased for a Slaughter House in the City and County of Saint John."

Cap. 51.—"An Act in addition to and in amendment of certain Acts relating to Public Slaughter Houses in the City and County of Saint John."

Cap. 52.—"An Act in addition to an Act intituled: 'An Act relating to the Roman Catholic Burial Ground in the Parish of Portland, City and County of Saint John.'"

Cap. 53.—"An Act to enable the Town of Portland to issue Debentures to complete Harris Street in said Town."

Cap. 54.—"An Act relating to the further extension of Canterbury Street in the City of Saint John."

Cap. 55.—"An Act to authorize the issue of Debentures by School District No. 13 in the Parish of Lancaster, in the City and County of Saint John."

Cap. 56.—"An Act to authorize the Trustees of School District No. 1, in the Parish of Lancaster, in the City and County of Saint John, to issue Debentures."

Cap. 57.—An Act to extend the Parish of Addington, in the County of Restigouche."

Cap. 58.—"An Act further to define the boundary of the Parish of Harvey, in the County of Albert."

Cap. 59.—"An Act to authorize the County Council of the Municipality of Carleton, to exempt from taxation Capital invested in said Municipality in the erection of Manufactories for the making of Sugar from Sugar Beets or Cane, and to manufacture Woollen Cloth."

Cap. 60.—"An Act to empower the Town Council in the Town of Moncton to exempt manufacturing enterprises hereafter established in the Town of Moncton from taxation for a term of years,"

Cap. 61.—"An Act to make valid and effectual a certain Deed from the Rector, Churchwardens and Vestry, of Christ Church, in the Parish of Maugerville, to Elizabeth J. Bailey."

Cap. 62.—"An Act to enable Margaret Firth to convey lands and property by way of mortgage in certain cases."

Cap. 63.—"An Act to provide for the application of the annual income arising from the property devised to the Trustees of the Wesleyan Methodist Church in the City of St. John, by Mark Varley, late of the said City, brickmaker, now deceased."

Cap. 64.—"An Act to vest the legal title in certain lands devised under the last will and testament of William Sedgwick, late of the Parish of Southampton, in the County of York, for educational purposes in that Parish, in the Trustees of School District No. 6, in the Parish of Southampton."

Cap. 65.—"An Act to legalize the assessment made by the Hon. Amos E. Botsford, Amos Ogden and Martin Trueman, the Commissioners appointed under Cap. 79, 36 Vic., to ascertain, fix and assess for the amount due to the Commissioners of German Town Lake appointed under Act 22nd Vic., Cap. 53.

These Acts do not seem to call for any special remark or for the exercise of the power of disallowance. I recommend that they be left to their operation.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th January,* 1882.

The Committee of Council have had before them a Report, dated 11th November, 1881, from the Minister of Justice, with respect to the Statutes passed by the Legislature of the Province of New Brunswick, in the 42nd year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts being Chapter 1 to Chapter 65, inclusively.

Certified.

J. O. COTÉ,
Clerk Privy Council.

NEW BRUNSWICK, 43RD VICTORIA, 1880.

2ND SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th June, 1881.

To His Excellency the Governor General in Council:

I have the honor to report with respect to the Acts passed by the Legislature of the Province of New Brunswick in the year 1880 :—

I recommend that the power of disallowance be not exercised with respect to the whole of the said Acts which are as follows, namely :—

Cap. 1.—"An Act to repeal Cap. 42 of the Consolidated Statutes 'Attachment.'"

Cap. 2.—"An Act to repeal Cap. 43 of the Consolidated Statutes, 'Garnishee or Trustee Proceeds.'"

Cap. 3.—"An Act to enable the Rector, Churchwardens and Vestry of Trinity Church in St. John, to issue Debentures."

Cap. 4.—"An Act to make provision for the issue of certain licenses to cut timber on Crown Lands."

Cap. 5.—"An Act to authorize the City of Fredericton to issue Debentures to take up outstanding indebtedness caused by burning of Old City Hall."

Cap. 6.—"An Act to provide for defraying certain Expenses of the Civil Government of the Province."

Cap. 7.—"An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and services."

Cap. 8.—"An Act to alter and amend Cap. 37 of the Consolidated Statutes of 'Proceedings and Practice in the Supreme Court.'"

Cap. 8.—"An Act to amend Cap. 38 of the Consolidated Statutes of 'Arrest, Imprisonment and Examination of Debtors.'"

Cap. 10.—"An Act to amend Cap. 40 of the Consolidated Statutes of 'The Supreme Court in Equity.'"

Cap. 11.—"An Act relating to the Supreme Court Sitting at Term."

Cap. 12.—"An Act to amend Cap. 83 of the Consolidated Statutes of 'Landlord and Tenant.'"

Cap. 13.—"An Act to amend Section 75 of Cap. 65 of the Consolidated Statutes of 'Schools.'"

Cap. 14.—"An Act to amend Cap. 99 of the Consolidated Statutes."

Cap. 15.—"An Act to amend Cap. 23 of the Consolidated Statutes of 'Agriculture.'"

Cap. 16.—"An Act in amendment of the law relating to the solemnization of Marriage, and to remove doubts as to marriages in certain cases."

Cap. 17.—"An Act to alter and amend Cap. 110 of the Consolidated Statutes of 'Fences, Trespasses and Pounds.'"

Cap. 18.—"An Act relating to the qualification of Justices of the Peace as Petit Jurors."

Cap. 19.—"An Act to provide for the Registry of Decrees and Orders of all Courts of Chancery, Equity and other Courts of Record."

Cap. 20.—"An Act for the better preservation of the Records of Horse Pedigrees."

Cap. 21.—"An Act further amending Cap. 45 of Acts of Assembly, 41st Victoria, for the protection of certain Birds and Animals."

Cap. 22.—"An Act in addition to the law relating to the Police Office established in the City of St. John, and the City of Fredericton."

Cap. 23.—"An Act to amend Cap. 100 of the Consolidated Statutes, title 'Rates and Taxes,' in respect of the Parishes of Simonds, St. Martins, Lancaster and Musquash, in the City and County of St. John."

Cap. 24.—"An Act to authorize the Town of Portland to raise money by way of loan for making better provision against fire in the eastern part of the said town."

Cap. 25.—"An Act relating to the collection of fines in the Town of Portland."

Cap. 26.—"An Act to repeal 42nd Victoria, Cap. 48, intituled: 'An Act relating to Rates and Taxes in the City and County of St. John."

Cap. 27.—"An Act relating to Sewerage in the Town of Portland."

Cap. 28.—"An Act in addition to, and in amendment of, certain Acts relating to Public Slaughter Houses in the City and County of St. John."

Cap. 29.—"An Act in amendment of, and in addition to, an Act to erect the Parish of St. Mark in the City of St. John, for ecclesiastical purposes."

Cap. 30.—"An Act to declare legal certain proceedings of the County Council of the Municipality of Restigouche."

Cap. 31.—"An Act in addition to, and in amendment of, the law relating to the new St. Stephen's Church in the City of St. John."

Cap. 32.—"An Act to incorporate the St. John Medical Library Association."

Cap. 33.—"An Act in further amendment of the law relating to Benefit Building Societies."

Cap. 34.—"An Act to authorize and empower the County Council of the Municipality of York to issue debentures to take up certain other debentures."

Cap. 35.—"An Act to authorize the Trustees of School District number two, St. Mary's, to issue debentures."

Cap. 36.—"An Act to authorize the erection of a gate across the Chapel Road in the Parish of Kingsclear."

Cap. 37.—"An Act relating to St. Paul's Church, Fredericton, in connection with the Presbyterian Church in Canada, formerly in connection with the Church of Scotland."

Cap. 38.—"An Act to incorporate the Hotel Brunswick Company of the City of St. John."

Cap. 39.—"An Act to alter the division line between the Parishes of Springfield and Studholm in King's County."

Cap. 40.—"An Act to alter a portion of the boundary line of the Parish of Sackville, Westmoreland County."

Cap. 41.—"An Act to remove doubts respecting the probate of the will of the late Honorable Edward B. Chandler."

Cap. 42.—"An Act to provide for a Lock-up House at Point du Chêne, Westmoreland County."

Cap. 43.—"An Act to authorize the Town of Moncton to raise further sums of money, by way of loan, for the construction of Public Buildings, Sewers, and Streets, in the Town."

Cap. 44.—"An Act to establish a Board of Health for the Town of Saint Stephen."

Cap. 45.—"An Act to authorize the examination of Richard B. Adams for admission as an Attorney at Law."

Cap. 46.—"An Act to authorize the Town of Milltown, in the County of Charlotte, to take Stock in the Ste. Croix Cotton Mill Company, and to issue Debentures for the purchase of such Stock."

Cap. 47.—"An Act further to amend an Act to incorporate certain Districts in the Town of St. Stephen, in the County of Charlotte, to be known as the Town of Saint Stephen, to legalize the present Lock-up House and to authorize said town to provide a new one."

Cap. 48.—"An Act relating to the Police establishment in the Town of Woodstock, County of Carleton."

Cap. 49.—"An Act to alter the Polling Place in the Parish of Johnston, Queen's County."

Cap. 50.—"An Act to amend and extend the Charter and Powers of the Peters' Combination Lock Company."

Cap. 51.—"An Act in addition to, and in amendment of, an Act intituled: 'An Act to incorporate the Sheer Boom Improvement Company.'"

Cap. 52.—An Act to authorize the erection of a Telephone between Chatham and Black Brook, in the County of Northumberland."

Cap. 53.—"An Act to incorporate the Harvey Bay View Cemetery Company."

Cap. 54.—"An Act to incorporate the Albert Milling and Manufacturing Company."

Cap. 55.—"An Act to authorize the erection of Certain Telephones in the Parishes of Bathurst and Caraquet, Gloucester County."

Cap. 56.—"An Act to provide for a Water Supply for Saint Peter's Village, Gloucester County."

Cap. 57.—"An Act to incorporate the Rocky Brook and Trout Brook Improvement Company."

Cap. 58.—"An Act to incorporate the Ste. Croix Cotton Mill Company."

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 12th July*, 1881.

On a Report, dated 25th June, 1881, from the Honorable the Minister of Justice reporting with respect to the Acts passed by the Legislature of the Province of New Brunswick in the year, 1880, and recommending that the power of disallowance be not exercised with respect to the whole of the said Acts, being Chapters 1 to 58 inclusive ;

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

J. O. COTE,

Clerk Privy Council.

NEW BRUNSWICK, 44TH VICTORIA, 1881.

3RD SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th July, 1882.

To His Excellency the Governor General in Council :

The undersigned has the honor to report with respect to the Acts passed by the Legislature of the Province of New Brunswick, in the year 1881, as follows :—

Chap. 1. An Act to legalize the Assessment of the Town of Portland, in the City and County of St. John, for the year 1880.

Chap. 2. An Act to authorize the Town of Portland to issue Guarantee Bonds.

Chap. 3. An Act to authorize the Town of Portland to issue Debentures to provide for the payment of Debentures issued under the authority of "The Common Schools Act, 1871.

Chap. 4. An Act to provide for a Special Assessment upon the City of St. John.

Chap. 5. An Act to enable the Municipality of the City and County of St. John to provide for the payment of certain advances made to the said City and County by the Provincial Government on Common Schools Account.

Chap. 6. An Act relating to Rates and Taxes in the Town of Portland.

Chap. 7. An Act to provide for defraying certain expenses of the Civil Government of the Province.

Chap. 8. An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and Services.

Chap. 9. An Act to amend Chapter 100 of the Consolidated Statutes, "Of Rates and Taxes."

Chap. 10. An Act in Amendment of Chapter 100 of the Consolidated Statutes, "Of Rates and Taxes."

Chap. 11. An Act in amendment of Consolidated Statutes, Chapter 94, "Of Licensing of Auctioneers."

Chap. 12. An Act relating to the transaction of the business of the Supreme Court.

Chap. 13. An Act respecting Records and Proceedings thereon in certain cases in the Superior Courts.

Chap. 14. An Act to provide for the admission in evidence of Telegraphic Messages.

Chap. 15. An Act to amend the Law respecting Documentary Evidence in certain cases.

Chap. 16. An Act further to continue Chapter 113 of the Consolidated Statutes, "Of the Destruction of Bears."

Chap. 17. An Act in amendmend of Chapter 104 of the Consolidated Statutes, "Of the Public Health."

Chap. 18. An Act relating to Provincial Debentures.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 19. An Act relating to the registration and qualification of Physicians and Surgeons.

Section 32 of this Act is as follows:—

"If the Registrar make, or cause to be made, any wilful falsification in any matters relating to the register, he shall forfeit a sum not less than one hundred dollars, to be recovered as hereinbefore provided as to persons practising medicine, surgery or midwifery illegally."

The offence created by the section, and for which a penalty in fixed, would appear to be felony under 32 and 33 Vic., Chap. 19, Sec. 4.

While not recommending that the power of disallowance be exercised with respect to this Act, the undersigned would respectfully recommend that the attention of the Lieutenant-Governor of the Province of New Brunswick be called to the section for the consideration of his advisers.

Chap. 20. An Act to make provision for Annual Returns of Municipal and Civic Indebtedness.

Chap. 21. An Act relating to the nomination and election of County Councillors.

Chap. 22. An Act to amend Chapter 44 of the Consolidated Statutes, "Of absconding, concealed, or absent Debtors."

Chap. 23. An Act further to amend Chapter 69 of the Consolidated Statutes, "Of Taxes on unimproved Granted Lands for certain purposes."

Chap. 24. An Act to amend Chapter 2 of the Consolidated Statutes, "Of the division of the Province into Counties, Towns and Parishes, so far as the same relates to the Boundary between Restigouche and Gloucester."

Chap. 25. An Act in addition to Chap. 45 of 41st Vic., intituled: "An Act for the protection of certain Birds and Animals."

Chap. 26. An Act further to continue an Act to incorporate the Northern and Western Railway Company of New Brunswick.

Chap. 27. An Act further to revive and continue the several Acts relating to the Central Railway Company.

Chap. 28. An Act to erect part of the Parish of Nelson, in the County of Northumberland, into a separate Town or Parish.

Chap. 29. An Act to establish additional Polling Places in the Counties of King's and Charlotte.

Chap. 30. An Act to amend Chapter 57 of the Consolidated Statutes, relating to the Town of Portland Civil Court.

Chap. 31. An Act to alter the Boundary Lines of the Parish of Ste. Croix, in the County of Charlotte.

Chap. 32. An Act to authorize the Municipal Council of Gloucester County to exempt Starch Factories from taxation.

Chap. 33. An Act to enable the Municipality of Kent to make provision for the payment of certain indebtedness.

Chap. 34. An Act to erect part of the Parishes of Saumarez and Inkerman, in the County of Gloucester, into a separate Parish.

Chap. 35. An Act to authorize the Municipality of the County of Charlotte to pay County Councillors for attendance at meetings of County Council.

Chap. 36. An Act in further amendment of the law relating to the Local Government of the City of St. John.

Chap. 37. An Act to authorize the Municipality of the County of Kent to pay County Councillors for attendance at meetings of County Council.

Chap. 38. An Act to amend 43 Vict., Chap. 28, intituled : "An Act in addition to and in amendment of certain Acts relating to Public Slaughter Houses in the City and County of St. John."

Chap. 39. An Act to unite the east and west Common Fields, in the Parish of Hopewell, Albert County, into one Common Field by the name of "The Great Common Field in Hopewell."

Chap. 40. An Act to amend 43 Vic., Chap. 24, intituled : "An Act to authorize the Town of Portland to raise Money by way of loan for making better provision against fire in the eastern part of the said Town."

Chap. 41. An Act to revive and make perpetual the several Acts for the repair of the Streets and Highways in part of the Parish of Woodstock, in the County of Carleton, so far as the same relate to the Upper Woodstock Road District.

Chap. 42. An Act relating to the Public Debt of the City of St. John.

Chap. 43. An Act relating to Sewerage in the Town of Portland.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

Chap. 44. An Act to incorporate the St. John Bridge and Railway Extension Company.

By this Act power is given to the Company to bridge the River St. John at such point at or near the City of St. John as the Company may select for the purpose. It is provided, however, that the bridge shall not interfere with the navigation of the river, and this provision it appears it is the intention to comply with, by building at or near the present suspension bridge and at a height above the water equal to or greater than the height above the water of the present suspension bridge ; and in the consideration of the question as to whether the bridge will be an interference with the navigation of the river or not, it would appear that the Legislature has considered the artificial as well as the natural conditions of the river at the place where it is proposed to erect the bridge. As the Company, however, are only empowered to build the bridge in case it does not interfere with the navigation of the river, the undersigned would recommend that the power of disallowance be not exercised with regard to this Act.

Chap. 45. An Act to authorize the Board of School Trustees of Portland to issue Debentures.

Chap. 46. An Act to authorize the Mayor, Aldermen and Commonalty of the City of Fredericton to consolidate the Debenture Debt of said City.

Chap. 47. An Act to explain and amend the Law relating to the granting of Business Licenses in the City of St. John.

Chap. 48. An Act to amend several of the Acts relating to the City of Fredericton.

Chap. 49. An Act relating to the management of the Sinking Fund in the Town of Woodstock.

Chap. 50. An Act further relating to Trespasses, Fences and Pounds in the Municipality of York.

Chap. 51. An Act to amend an Act to provide for the drainage and protection of the different Marsh Lands in the Parish of Lancaster, in the County of St. John.

Chap. 52. An Act to authorize the Municipality of York to lease certain lands at Crock's Point, in the Parish of Bright, in the County of York.

Chap. 53. An Act to vest the title of the Masonic Hall property in the Town of Richibucto, in the County of Kent, in the Trustees elected and appointed by Lodge St. Andrew, No. 16, New Brunswick Registry of Free and Accepted Masons.

Chap. 54. An Act to enable the Trustees of the Centenary Methodist Church at St. John, N.B., to issue Debentures on the security of their Corporate Property in the City of St. John.

Chap. 55. An Act to authorize the Rector, Churchwardens and Vestry of St. James Church, in the Parish of St. James, in the City of St. John, to sell and dispose of certain lands and premises.

Chap. 56. An Act to authorize the Rector, Churchwardens and Vestry of the Church of St. John the Evangelist, Bay du Vin, Northumberland, to dispose of certain lands.

Chap. 57. An Act to consolidate all Acts relating to the St. John County Agricultural Society, and to change the name, and add to the powers thereof.

Chap. 58. An Act to incorporate the New Brunswick Society for the Prevention of Cruelty to Animals.

Chap. 59. An Act authorizing the Credit Foncier Franco-Canadien to extend its operation to and in the Province of New Brunswick.

Chap. 60. An Act further in addition to and in amendment of an Act to incorporate the Sheer Boom Improvement Company.

Chap. 61. An Act to incorporate the Moncton Harbor Improvement Company.

Chap. 62. An Act to consolidate and amend the several Acts relating to the South-West Boom Company.

Chap. 63. An Act to amend an Act to incorporate the Restigouche Boom Company.

Chap. 64. An Act to incorporate the St. George Cotton Mill Company.

Chap. 65. An Act to amend an Act intituled: "An Act to incorporate the Ste. Croix Cotton Mill Company."

Chap. 66. An Act to incorporate the Hampstead Cheese Manufacturing Company.

Chap. 67. An Act to incorporate the Rothesay Water Company.

Chap. 68. An Act to incorporate the Curry's Cove Wharf Company.

Chap. 69. An Act to incorporate the South-West River Driving Company.

Chap. 70. An Act to incorporate the Eastern Marine Insurance Company, of St. John, New Brunswick.

Chap. 71. An Act to incorporate The Dominion Safety Fund Life Association.

Chap. 72. An Act to incorporate The New Brunswick Lloyd's Marine Insurance Company.

Chap. 73. An Act to incorporate The Woodstock and Harvey Railway Company.

Chap. 74. An Act relating to the Estate of the Reverend James Dunphy, deceased.

The undersigned recommends that the power of disallowance be not exercised with respect to these Acts.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th July*, 1882.

On a Report dated 14th July, 1882, from the Minister of Justice, recommending, with respect to the Acts passed by the Legislature of the Province of New Brunswick in the year 1881, the 44th year of Her Majesty's reign, being Chapters 1 to 74 inclusively, that the power of disallowance be not exercised with regard to any of the said Acts.

The Committee concur in the foregoing recommendation of the Minister of Justice, and they advise that the attention of the Lieutenant-Governor of New Brunswick be called, for the consideration of his Advisers, to the observations of the Minister of Justice upon Chapters 19 and 44 respectively.

Certified.

JOHN J. McGEE,
Clerk Privy Council.

NEW BRUNSWICK, 45TH VICTORIA, 1882.

4TH SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General of Canada :

The undersigned having had under consideration the Acts of the General Assembly of the Province of New Brunswick passed in the Session of 1882, begs to observe that he has reserved Chapters 9, 69 and 87 for a special Report ; but recommends that the remaining Acts, hereinafter enumerated, be left to their operation :—

Chap. 1. An Act to declare valid the list of Electors made up during the year one thousand eight hundred and eighty-one, by Revisors in the several Parishes of this Province.

Chap. 2. An Act to amend an Act intituled : "An Act to incorporate certain Districts of the Parish of Saint Stephen, in the County of Charlotte, to be known as the Town of Milltown.

Chap. 3. An Act to amend Chapter 99 of the Consolidated Statutes of "Municipalities," and Chapter 75 of 41st Victoria, intituled: "An Act relating to Highways in the Parishes of Simonds, Saint Martins, Lancaster, and Musquash, in the City and County of Saint John."

Chap. 4. An Act to provide for paying certain Expenses of the Civil Government.

Chap. 5. An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and Services.

Chap. 6. An Act relating to the Office of the Clerk of the Pleas.

Chap. 7. An Act relating to the Usher, Messenger and Crier of the Supreme and other Courts.

Chap. 8. An Act relating to Proceedings in the Supreme Court in Equity.

Chap. 10. An Act in amendment of Chapter 52 of the Consolidated Statutes of Courts of Probate.

Chap. 11. An Act to increase the jurisdiction of Parish and certain other Inferior Courts.

Chap. 12. An Act to amend Chapter 59 of the Consolidated Statutes of "Parish Courts," so far as relates to the County of York.

Chap. 13. An Act to amend Chapter 59 of the Consolidated Statutes of "Parish Courts."

Chap. 14. An Act relating to Commissioners of Parish Civil Courts.

Chap. 15. An Act in amendment of Chapter 60 of the Consolidated Statutes of "Justices' Civil Courts."

Chap. 16. An Act further to amend Chapter 57 of the Consolidated Statutes, of "The Town of Portland Civil Court."

Chap. 17. An Act to provide for Garnishee or Trustee Process.

Chap. 18. An Act in amendment of the Law relating to Bastardy.

Chap. 19. An Act relating to the payment of Coroners.

Chap. 20. An Act to amend Chapter 4 of the Consolidated Statutes of Elections to the General Assembly.

Chap. 21. An Act relating to the qualification of Members to serve in the General Assembly.

Chap. 22. An Act relating to the employment of Constables in Superior Courts.

Chap. 23. An Act to define the duties of Constables, special Constables and Policemen.

Chap. 24. An Act relating to Limited Partnerships.

Chap. 25. An Act in amendment of Chapter 99 of the Consolidated Statutes.

Chap. 26. An Act in amendment of Chapter 46 of the Consolidated Statutes, "Witnesses and Evidence."

Chap. 27. An Act in amendment of Chapter 74 of the Consolidated Statutes, of Registry of Deeds and other Instruments.

Chap 28. An Act relating to the Legislative Library.

Chap. 29. An Act to amend Chapter 65 of the Consolidated Statutes of "Schools."

Chap. 30. An Act in amendment of Chapter 19 of 44th Victoria, intituled: "An Act relating to the Registration and Qualification of Physicians and Surgeons."

Chap. 31. An Act in amendment of an Act to make provision for Annual Returns of Municipal and Civic Indebtedness.

Chap. 32. An Act further to continue Chapter 113 of the Consolidated Statutes, "of the Destruction of Bears."

Chap. 33. An Act in further amendment of an Act intituled: "An Act for the Regulation of Benefit Building Societies," and of other Acts relating to said Societies.

Chap. 34. An Act in aid of the construction of Railways and other Works in this Province.

Chap. 35. An Act to alter the name of the Polling Place for the Parish of Chipman, Queen's County.

Chap. 36. An Act further to continue an Act intituled: "An Act intituled: 'An Act to incorporate the New Brunswick and Prince Edward Island Railway Company.'"

Chap. 37. An Act in further amendment of 37th Victoria, Chapter 65, intituled: "An Act to incorporate the New Brunswick and Prince Edward Island Railway Company."

Chap. 38. An Act to revive and continue an Act to incorporate the Dalhousie Branch Railway Company, and other Acts relating thereto.

Chap. 39. An Act to continue an Act to incorporate the Woodstock and Harvey Railway Company.

Chap. 40. An Act to continue and amend the several Acts relating to the Elgin, Petitcodiac and Havelock Railway Company.

Chap. 41. An Act to enable the Grand Southern Railway Company to extend their Line of Railway, and to amalgamate with or transfer to any other Company, and for other purposes.

Chap. 42. An Act to revive, continue and amend an Act intituled: "An Act to incorporate the North Shore and Salisbury Junction Railway Company."

Chap. 43. An Act to amend an Act intituled: "An Act to incorporate the Albert Southern Railway Company."

Chap. 44. An Act to continue an Act intituled: "An Act to incorporate the Albert Southern Railway Company."

Chap. 45. An Act to incorporate the Saint John and Loch Lomond Railway Company.

Chap. 46. An Act to incorporate the Hampton Railway Company.

Chap. 47. An Act to incorporate the Saint Louis, Richibucto and Buctouche Railway Company.

Chap. 48. An Act to continue an Act to incorporate the Caraquet Railway Company.

Chap. 49. An Act further to amend an Act to incorporate the Northern and Western Railway Company of New Brunswick.

Chap. 50. An Act to amend Chapter 44 of 44th Victoria, intituled: "An Act to incorporate the Saint John Bridge and Railway Extension Company."

Chap. 51. An Act relating to the Stock of the New Brunswick and Canada Railroad Company.

Chap. 52. An Act to enable the Parishes of Sackville, Westmoreland and Botsford, in the County of Westmorland, to aid in the construction of the Railway from the Intercolonial Railway to Cape Tormentine.

Chap. 53. An Act to amend an Act, made and passed in the 44th year of Her Majesty's Reign, intituled: "An Act to authorize the Board of School Trustees of Portland to issue Debentures."

Chap. 54. An Act to amend 44th Victoria, Chapter 3, intituled: "An Act to authorize the Town of Portland to issue Debentures to provide for the payment of Debentures issued under the authority of the Common Schools Act, 1871."

Chap. 55. An Act to aid in the maintenance of a Salvage Corps in the City of Saint John.

Chap. 56. An Act to amend an Act intituled: "An Act in further amendment of the Law relating to the local government of the City of Saint John."

Chap. 57. An Act to amend and extend the provisions of 44th Victoria, Chapter 58, intituled: "An Act to incorporate the New Brunswick Society for the prevention of Cruelty to Animals."

Chap. 58. An Act to authorize and empower the Public General Hospital in Saint John to replace a Bond held by Richard M. Longenaid, which was alleged to be destroyed at the Great Fire in the City of Saint John, 1877.

Chap. 59. An Act to regulate the assessing, levying and collecting of Rates and Taxes in the City of Saint John.

Chap. 60. An Act to incorporate the Saint John Canal and Dock Company.

Chap. 61. An Act to amend Chapter 11 of 34th Victoria, intituled: "An Act to incorporate the Town of Portland."

Chap. 62. An Act to authorize the Trustees of Saint Paul's Church, Fredericton, to issue Debentures on the Security of their Corporate Property.

Chap. 63. An Act to constitute Fifth Ward, in the Town of Portland, into a Separate Polling District.

Chap. 64. An Act to authorize the erection of Sidewalks, and to provide more effectually for the repairing of the Roads and Streets and digging of Drains in two Special Districts in the Parish of Saint Mary's in the County of York.

Chap. 65. An Act to authorize the County Council of the Municipality of York to convert a portion of the lower flat of the County Court House into a Record Office and other Public Offices and Rooms.

Chap. 66, An Act to provide for a system of Sewerage and Water Supply for the City of Fredericton.

Chap. 67. An Act to authorize the erection of a Lock-up House in Stanley, York County.

Chap. 68. An Act to amend an Act intituled: "An Act to prevent Bribery and Corruption at Civic Elections in the City of Fredericton."

Chap. 70. An Act further regulating the Police Establishment in the City of Fredericton.

Chap. 71. An Act relating to Imprisonment in the Lock-up House at the Parish of Grand Manan, in the County of Charlotte.

Chap. 72. An Act to authorize the Town of Saint Stephen to consolidate the Debenture Debt of that Town.

Chap. 73. An Act to provide for the election of a Mayor, Councillors and Assessors for the Town of Upper Mills, for the Year ending the fourth Monday in March, A.D. 1883.

Chap. 74. An Act relating to Boundary or Line Ditches on the Marshes in the County of Westmoreland.

Chap. 75. An Act regulating the Assessment of Rates and Taxes between the Parishes of Sackville and Westmoreland, Westmoreland County.

Chap. 76. An Act to legalize the County valuation made in the County of Carleton in 1881.

Chap. 77. An Act to empower the County Council of the Municipality of Carleton to issue Debentures and make assessments for the purpose of purchasing Land and erecting County Buildings.

Chap. 78. An Act further to amend the several Acts relating to the Town of Woodstock in the County of Carleton.

Chap. 79. An Act relating to the Woodstock Mechanics' Institute.

Chap. 79. An Act to authorize the Town Council of the Town of Woodstock to provide a system of Waterworks for said town.

Chap. 81. An Act to authorize the County Councillors for the Parish of Blissville, in the County of Sunbury, to sell certain Lands.

Chap. 82. An Act to authorize the increase of the Capital Stock of the "Sun" Publishing Company, and to enable the Directors of the Company to issue Debentures.

Chap. 83. An Act to increase the Capital Stock and to amend the Act to ratify and confirm the Incorporation of "The Brunswick Antimony Company."

Chap. 84. An Act to revest in the City Corporation of Saint John the property included in the Trust Deed formerly granted to certain Trustees.

Chap. 85. An Act to authorize the Town of Portland to issue Debentures and make Assessment for a new street in Ward 3.

Chap. 86. An Act to authorize the Roman Catholic Bishop of Saint John to convey and dispose of certain property.

Chap. 88. An Act to incorporate the New Brunswick Historical Society.

Chap. 89. An Act to incorporate the Auxiliary Bible Society of New Brunswick.

Chap. 90. An Act to incorporate the Ste. Croix Skating Rink Company.

Chap. 91. An Act to amend an Act to incorporate the Moncton Driving Park Association.

Chap. 92. An Act to amend an Act intituled: "An Act to incorporate the Rothesay Water Company."

Chap. 93. An Act to incorporate the Women's Christian Union of the Town of Portland.

Chap. 94. An Act to incorporate the Riley Point Wharf Company,

Chap. 95. An Act to incorporate the Trustees of the Young Men's Christian Association of the Town of Moncton.

Chap. 96. An Act to amend an Act intituled: "An Act to incorporate the Belliveau Albertite and Oil Company."

Chap. 97. An Act to amend an Act intituled: "An Act to incorporate the Albert Mining Company and to provide for winding up the affairs of said Company."

Chap. 98. An Act to confer powers upon the "Bell Telephone Company of Canada."

Chap. 99. An Act to incorporate the St. John Dry Dock and Improvement Company.

Chap. 100. An Act to incorporate certain persons to be known as "The Quoddy Driving and Boom Company."

(Signed) A. CAMPBELL
Minister of Justice.

CERTIFIED *Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th February*, 1883.

The Committee of the Privy Council have had before them a Report, hereunto attached, dated the 13th February, 1883, from the Minister of Justice with respect to the Acts of the General Assembly of the Province of New Brunswick, passed in the Session of 1882, the 45th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts therein enumerated, being Chapter 1 to 100 inclusively, save as regards Chapters 9, 69 and 87, which have been reserved for a special Report.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General in Council:

The undersigned has had under consideration the following Acts of the General Assembly of the Province of New Brunswick passed in the year 1882, viz:—

Chap. 9. An Act in amendment of Chapter 51 of the Consolidated Statutes of County Courts.

Chap. 69. An Act to incorporate the Fredericton and Saint Mary's Bridge Company.

Chap. 87. An Act to revive, continue and amend the several Acts relating to the Courtenay Bay Bridge Company.

The effect of the 1st Section of Chapter 9, if within the Legislative authority of the Legislature, is to remove from their offices the Judge of the King's County Court, and the Judge of the Albert County Court.

This it is submitted the Legislature has no power to do, but as these Judges, subsequently to the coming into force of the Act, voluntarily resigned their respective offices, and Commissions have been issued making the necessary appointments, the Act may be left to its operation.

By Chapter 69 the Company thereby incorporated, the Fredericton and Saint Mary's Bridge Company, is given authority to bridge the River Saint John at Fredericton, and it is provided by the 2nd section that the bridge shall be so constructed, as not to interfere with the navigation of the River St. John.

The 17th Section is in the following words, viz.: "Nothing herein contained shall be construed to authorize the company, in the erection of the said bridge, to interfere with the navigation of the River St. John, except so far as may be absolutely necessary for the proper carrying on of the work."

It is clear from the clause that the Legislature are of opinion that the bridge cannot be constructed without any interference with the navigation of the river. This interference the Legislature has no power to authorize.

By 45 Vic., Chap., 37, intituled : " An Act respecting Bridges over Navigable Waters constructed under the authority of Provincial Acts," Parliament has made provision whereby, on the site being approved by the Governor General in Council, and the other terms of the Act being complied with, bridges constructed under the authority of Acts passed by Local Legislatures may become lawful bridges, although they interfere with the navigation of the waters over which they are erected. From the operation of this Act, however, as well as from the operation of the clauses of " The Consolidated Railways Act, 1879," by it repealed, the Rivers St. Lawrence and St. John are excepted. The same exception was made in 39 Vic., Chap. 15, repealed by " The Consolidated Railways Act, 1879." There is therefore no authority except Parliament that can authorize an interference with the navigation of the River St. John.

In 1871 Parliament incorporated a Company with power to construct a bridge across the St. John, from Fredericton to St. Mary's, or between the Parishes of Kingsclear and Douglas.

That Charter has expired by virtue of the limitation contained in the 19th Section thereof, and reference is made thereto simply for the purpose of showing that Parliament has legislated in the direction of granting an authority, now purported to be given by an Act of a Local Legislature.

The undersigned recognizes the importance of the Act in question, and would therefore not lightly recommend its disallowance, but he sees no other course open unless the Legislature, at its next Session, amends the 17th Section by striking out the words " except so far as may be absolutely necessary for a propor carrying on of the work," or unless the Company, at the coming Session of Parliament, obtain the sanction to the proposed interference with the navigation of the River St. John.

By Chapter 87 the charter of the Courtenay Bay Bridge Company—a Company incorporated prior to the union of the Provinces—is revived, continued and amended.

A similar Act was passed in 1877, and was, after correspondence with the Department of Marine and Fisheries, allowed to go into operation.

The undersigned recommends that the same course be followed in regard to this Act, but in doing so desires to express the opinion that before acting under it, the Company should have the site and plans approved in accordance with the provisions of the Act of Parliament 45 Vic., Chap. 37.

The undersigned further recommends that his observations in regard to these Acts, if approved in Council, be communicated to the Lieutenant-Governor of New Brunswick for the information of his Government.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March*, 1883.

The Committee of the Privy Council have had before them a Report, herewith attached, dated 13th February, 1883, from the Minister of Justice, with respect to certain Acts of the General Assembly of the Province of New Brunswick, passed in the year 1882, the 45th year of Her Majesty's reign, which were reserved for a separate Report.

On the recommendation of the Minister of Justice the Committee advise that the power of disallowance be not exercised with respect to the Acts, being Chapters 9 and 87, and they further advise that the attention of the Lieutenant-Governor be directed to the observations in the Report of the Minister of Justice, for the information of his Government, and that action be deferred in regard to Chapter 69.

JOHN J. McGEE.

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th July, 1883.

To His Excellency the Governor General in Council:

With reference to the Act of the General Assembly of the Province of New-Brunswick passed in the year 1882, Chapter sixty-nine (69) and intituled:

"An Act to incorporate the "Fredericton and Saint Mary's Bridge Company," the undersigned begs respectfully to refer to the Report of the Minister of Justice dated the 13th February last, and which was approved by Your Excellency on the 6th March last, in which the grounds of objection to the Act in question are set out at length.

In conformity with the Order in Council referred to, the observations of the Minister of Justice in regard to this Act were communicated to the Lieutenant-Governor of New Brunswick for the information of his Government. The attention of the Lieutenant-Governor having since here called to a previous communication had with him on the subject, with a view to ascertain whether any Legislation was had during the last Session of the General Assembly in regard to Chapter 69 of 1882, a Report has been received from the Lieutenant-Governor enclosing a copy of a Memorandum of his Executive Council on the 30th ultimo, stating that no amendment has been made to the Act, nor is it in contemplation to make any amendment thereto.

There is therefore no object in longer deferring action in this matter.

Under these circumstances and for the reasons indicated in the first mentioned Report the undersigned humbly recommends that the Act of the General Assembly of the Province of New Brunswick passed in the year 1882, chaptered sixty-nine (69) and intituled: "An Act to incorporate the Fredericton and Saint Mary's Bridge Company," be disallowed.

H. L. LANGEVIN,
For the Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor Genaral in Council on the 24th July,* 1883.

On a Report dated 20th July, 1883, from the Acting Minister of Justice, stating with reference to the Act of the General Assembly of the Province of New Brunswick passed in the year 1882, Chaptered 69 and intituled: "An Act to incorporate the Fredericton and St. Mary's Bridge Company," that the grounds of objection to the Act in question are set forth at length in the Report of the Minister of Justice dated 13th February, 1883, and approved by Your Excellency in Council on the 6th March, 1883.

That in conformity with the Order in Council referred to, the observation of the Minister of Justice in regard to this Act were communicated to the Lieutenant-Governor of New Brunswick for the information of his Government.

That the attention of the Lieutenant-Governor has since been called to a previous communication had with him on the subject, with a view to ascertain whether any Legislation was had during the last Session of the General Assembly in regard to Chapter 69 of 1882, and a Report has been received from the Lieutenant Governor, enclosing a copy of a Memorandum of his Executive Council passed in Council on the 30th June, ultimo, stating that no amendment has been made to the Act, nor is it in contemplation to make any amendment thereto.

That there is therefore no object in longer deferring action in this matter.

The Minister recommends under these circumstances and for the reasons indicated in the first mentioned Report, that the Act of the General Assembly of the Province of New Brunswick passed in the year 1882, Chaptered 69, and intituled:

"An Act to incorporate the Fredericton and St. Mary's Bridge Company," be disallowed.

The Committee advise that the Act be disallowed accordingly.

JOHN J. McGEE.

Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 24th day of July, 1883.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of New Brunswick with the Legislative Council and General Assembly of that Province did, on the sixth day of April, 1882, pass an Act which has been transmitted intituled as follows, viz : "An Act to incorporate the Fredericton and Saint Mary's Bridge Company ; "

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Acting Minister of Justice recommending that the said Act should be disallowed ;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of New Brunswick, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,

Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislative Council and General Assembly of the Province of New Brunswick the sixth day of April, 1882, intituled : "An Act to incorporate the Fredericton and Saint Mary's Bridge Company," was received by me on the 8th day of August, 1882.

Given under my hand and seal this 24th day of July, 1883.

LORNE.

NEW BRUNSWICK, 46TH VICTORIA, 1883.

5TH SESSION—24TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 31st January, 1884.

To His Excellency the Governor General in Council :

The undersigned begs leave to report upon the Acts of the General Assembly of the Province of New Brunswick passed in the month of May, 1883,

That he has reserved for a separate Report,—Chap. 17, intituled : "An Act in amendment of, and in addition to, an Act passed in the 38th year of the reign of Queen Victoria, intituled : 'An Act to incorporate the Town of Moncton,'" and Chap. 37, intituled : "An Act to provide for the appointment of a Police Magistrate, and to establish a Lock-up House in Shediac, Westmoreland County."

Having carefully considered the Acts passed at the said Session, the Chapters and Titles of which are given in the Schedule appended hereto, he recommends that they be left to their operation.

A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Chap. 1. An Act to provide for defraying certain expenses of the Civil Government of the Province.

Chap. 2. An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and Services.

Chap. 3. An Act in amendment of an Act in aid of the construction of Railway and other Works in this Province.

Chap. 4. An Act to reduce the Salaries of certain Members of the Executive Council.

Chap. 5. An Act in further continuance of Chapter 113 of the Consolidated Statutes, of "The Destruction of Bears."

Chap. 6. An Act in amendment of Chapter 9 of the Consolidated Statutes, of "Provincial Revenues and Accounts."

Chap. 7. An Act to fix the indemnity to Members of the Legislature, and the salaries of the President of the Legislative Council and Speaker of the House of Assembly for the short Session in the months of February and March, A.D. 1883.

Chap. 8. An Act relating to the Office of the Clerk of the Crown.

Chap. 9. An Act relating to certain salaries, and in repeal of Chapter 3, 42 Victoria.

Chap. 10. An Act to amend Chapter 100 of the Consolidated Statutes of "Rates and Taxes."

Chap. 11. An Act in addition to Chapter 189 of the Consolidated Statutes of "Fees."

Chap. 12. An Act to authorize the Funding of the Floating Debt of the Province.

Chap. 13. An Act to remove Doubts relating to certain Marriages.

Chap. 14. An Act to provide for the Registry of Notices under Power of Sale contained in mortgages of Real Property.

Chap. 15. An Act to repair certain omissions connected with the Registration of Deeds, Wills and other Documents, in the County of Gloucester.

Chap. 16. An Act to amend Chapter 59 of the Consolidated Statutes, of Parish Courts, so far as relates to the County of Victoria.

Chap. 18. An Act to provide for the erection of an Almshouse and Workhouse for the Town of Moncton, and the maintenance of the Poor of said Town.

Chap. 19. An Act to provide for the Sewerage Service of the Town of Moncton.

Chap. 20. An Act to incorporate the New Brunswick Centennial and Loyalist Memorial Association.

Chap. 21. An Act to incorporate the Woodstock Hall Company.

Chap. 22. An Act to incorporate the New Brunswick Guarantee Company.

Chap. 23. An Act to incorporate the North Eastern and Seaside Hotel Company.

Chap. 24. An Act to incorporate the Moncton Publishing Company.

Chap. 25. An Act to incorporate the New Brunswick Baptist Education Society.

Chap. 26. An Act further to amend the several Acts relating to the Town of Woodstock, in the County of Carleton.

Chap. 27. An Act in further amendment of the several Acts relating to the New Brunswick and Prince Edward Island Railway Company.

Chap. 28. An Act to alter the Polling Place for District number two in the Parish of Dumfries, in the County of York.

Chap. 29. An Act to incorporate the Natural History Society of New Brunswick.

Chap. 30. An Act to continue and amend the Incorporation of the Albert Brick, Lime and Cement Company.

Chap. 31. An Act to amend an Act to incorporate certain Districts in the Parish of Saint Stephen, to be known as the Town of Milltown.

Chap. 32. An Act further to amend the Act to incorporate certain Districts of the Parish of St. Stephen, in the County of Charlotte, to be known as the Town of Saint Stephen, and Acts in amendment thereof.

Chap. 33. An Act to exempt certain manufactories, and the stock, capital and income thereof, in the Town of Saint Andrew's, from certain Rates and Taxes.

Chap. 34. An Act to amend an Act intituled: "An Act to provide a system of Sewerage and Water Supply for the City of Fredericton."

Chap. 35. An Act to confirm the Incorporation of the Moncton Cotton Manufacturing Company, and to authorize the said Company to issue Debentures.

Chap. 36. An Act in addition to, and in amendment of, an Act intituled: "An Act to incorporate the Moncton Gas Light and Water Company."

Chap. 38. An Act relating to the Public Streets of the Town of Moncton.

Chap. 39. An Act to authorize the County Council of the Municipality of Westmoreland to sell and dispose of certain Lands of that Municipality.

Chap. 40. An Act in further amendment of the several Acts relating to the North Shore and Salisbury Junction.

Chap. 41. An Act further to amend 43rd Victoria, Chapter 28, intituled: "An Act in addition to, and in amendment of, certain Acts relating to Public Slaughter Houses in the City and County of Saint John.

Chap. 42. An Act to authorize the City Council of the City of Portland to raise money, by way of loan, for completing the equipment of the Engine House in Ward No. 4 of said City.

Chap. 43. An Act to amend an Act intituled: "An Act to incorporate the Victoria Skating Club of Saint John."

Chap. 44. An Act to provide for a Special Assessment upon the City of Saint John.

Chap. 45. An Act in further amendment of Chapter 44, of 44th Victoria, intituled: "An Act to incorporate the Saint John Bridge and Railway Extension Company."

Chap. 46. An Act relating to the election of Churchwardens and Vestrymen of Trinity Church, in the Parish of Saint John, in the City of Saint John.

Chap. 47. An Act to authorize the Council of the Municipality of the City and County of Saint John to effect a Loan for the purpose of paying off certain Certificates of Indebtedness issued under 35 Vic., Cap. 57, and to make an annual Assessment for repayment thereof.

Chap. 48. An Act to authorize the City Council of the City of Portland to exempt the New Brunswick Cordage Works in said City from taxation for the period of ten years.

Chap. 49. An Act to incorporate the Saint John Oratorio Society.

Chap. 50. An Act in amendment of the Law relating to Top Wharfage in the City and County of Saint John.

Chap. 51. An Act to incorporate the Canada Rolling Stock Company.

Chap. 52. An Act to amend an Act intituled: "An Act to authorize the increase of the Capital Stock of the "Sun" Publishing Company, and to enable the Directors of the Company to issue Debentures."

Chap. 53. An Act to authorize the Rector, Churchwardens and Vestry of Saint James' Church, in the Parish of Saint James, in the City of Saint John, to mortgage certain Lands and premises.

Chap. 54. An Act to enable the Common Council of the City of Saint John to exempt from Taxation certain property of the Saint John Cotton Company.

Chap. 55. An Act to provide for a Special Assessment upon that part of the City of Saint John on the Eastern side of the Harbor.

Chap. 56. An Act relating to the City of Portland, being an Act in amendment of, and in addition to, Chapter 61 of 45th Victoria.

Chap. 57. An Act to authorize the Rector, Churchwardens, and Vestry of the Church of Saint John the Evangelist, Bay du Vin, Northumberland County, to dispose of certain Lands.

Chap. 58. An Act to establish a Free Public Library in the City of Saint John.

Chap. 59. An Act to authorize the Trustees of School District No. 6 in the Parish of Musquash, in the City and County of Saint John, to issue Debentures.

Chap, 60. An Act to change the name of the Saint John and Loch Lomond Railway Company, to the Saint John and North Eastern Railway Company, and for other purposes.

Chap. 61. An Act in amendment of 44th Victoria, Chapter 62, intituled: "An Act to consolidate and amend the several Acts relating to the South-West Boom Company."

Chap. 62. An Act to revive, continue and amend the Act to incorporate the North-West Boom Company.

Chap. 63. An Act further to amend the several Acts relating to the Chatham Branch Railway Company.

Chap. 64. An Act to authorize the Municipality of Kent to issue Debentures to raise Funds to repair the Court House in Kent County.

Chap. 65. An Act to incorporate the Chatham Skating Rink Company.

Chap. 66. An Act to alter the Parish Line between the Parishes of Saint Mary's and Harcourt, in the County of Kent.

Chap. 67. An Act to amend the Act 38th Victoria, Chapter 74, intituled: "An Act relating to the Trustees of the Mount Allison Wesleyan Academy."

Chap. 68. An Act to incorporate the Baptist Annuity Association located in New Brunswick.

Chap. 69. An Act in further amendment of an Act to incorporate the Albert Southern Railway Company.

Chap. 70. An Act further to amend an Act to incorporate the Restigouche Boom Company.

Chap. 71. An Act to incorporate the Hampton Rural Cemetery Company.

Chap. 72. An Act further to enable the Grand Southern Railway Company to alter and extend their Line of Railway.

Chap. 73. An Act to authorize the County Council of the Municipality of Victoria to exempt Woollen, Cheese and Starch Factories and Grist Mills from Taxation.

Chap. 74. An Act to incorporate the River View Cemetery Company.

Chap. 75. An Act to authorize the Trustees of School District No. 1 in the Parish of Madawaska, in the County of Madawaska, to sell and convey certain Lands.

Chap. 76. An Act to authorize the appointment of a District or Stipendiary Magistrate for the Town of Chatham, in the County of Northumberland.

Chap. 77. An Act to amend an Act intituled: "An Act to amend an Act to incorporate the Hillsborough Branch Railway Company."

Chap. 78. An Act to incorporate the Buctouche and Moncton Railway Company.

Chap. 79. An Act to amend an Act intituled: "An Act to incorporate the Central Railway Company, and the several Acts in amendment thereof."

Chap. 80. An Act to amend an Act to incorporate the Albert Manufacturing Company.

Chap. 81. An Act to enable the Peters' Combination Lock Company to issue Debentures, and for other purposes.

Chap. 82. An Act to authorize the Municipality of Gloucester to consolidate their Indebtedness by the issue of Debentures.

Chap. 83. An Act to amend an Act intituled: "An Act to incorporate the Harvey Branch Railroad Company."

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th February,* 1884.

The Committee of the Privy Council have had before them a Report dated 31st January, 1884, from the Minister of Justice with regard to the Acts of the General Assembly of the Province of New Brunswick, passed in the month of May, 1883, Chaptered from 1 to 83 inclusive.

The Committee on the recommendation of the Minister of Justice, advise that the said Acts be left to their operation, save and except Chapters 17 and 37 which the Minister of Justice reserves for a separate Report.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 31st January, 1884.

To His Excellency the Governor General in Council:

The undersigned begs leave to report in respect to two Acts of the General Assembly of the Province of New Brunswick, passed in the month of May, 1883, chaptered and intituled as follows:—

Chap. 17. "An Act in amendment of, and in addition to, an Act passed in the 38th year of the Reign of Queen Victoria, intituled: 'An Act to incorporate the Town of Moncton.'

Chap. 37. "An Act to provide for the appointment of a Police Magistrate, and to establish a Lock-up House in Shediac, Westmoreland County."

By the 9th Section of Chapter 17 it is provided that:—

"All sums of money received by the said Police Magistrate, or at the said Police office, or by the Magistrate sitting at the Police office in his stead, for fees, fines, penalties, forfeitures or costs incurred and paid under the provisions of any Law or Statute in force in the said Province, or of any by-laws or ordinance of the Town Council of the Town of Moncton or for any costs whatever by him receivable in any criminal matter whatever, shall be paid over by the said Police Magistrate, on the first day of every month not being Sunday or a public holiday, together with an account under oath to be sworn before any Justice of the Peace (which oath any Justice of the Peace is hereby authorized to administer) of all such moneys to the Treasurer of the Town of Moncton, to be by him kept and applied for the purposes of the Town."

By the 6th Section of Chapter 37 it is provided that:—

"All fines and penalties imposed by the said District, Police or Stipendiary Magistrate for the said Shediac Police District, for any omission or offence under any Act of Assembly of New Brunswick, or under any Act of the Dominion of Canada, where the fines or penalties are not otherwise disposed of, shall be paid out and appropriated by him in manner following:—

"He shall in the first place pay all constables' fees and charges, and after then retaining his own fees, shall out of the balance (if any), pay to the keeper of the said Lock-up House, as renumeration for his care and attention, a sum not exceeding in all fifty dollars per annum."

The expression "fines, penalties, forfeitures, and costs incurred and paid under the provisions of any Law or Statute in force in the said Province" in the 9th Section of Chapter 17 is large enough to include fines, penalties and forfeitures incurred under Acts of the Parliament of Canada, while the 9th Section of Chapter 37, in terms purports to make provision for the application of fines and penalties which may become payable in respect of offences against Acts of Parliament.

It is true that Parliament in repealing so far as it was within its Legislative authority, Chapter 137 of the Revised Statutes of New Brunswick of Summary Convictions before Justices, excepted Section twenty-two of that Chapter from repeal, and declared that it should apply to Summary Convictions Act of 1869.

Section 22 aforesaid provides that:

"All sums received by any Officer under any of the foregoing proceedings shall be paid by him to the County Treasurer for County contingencies, except such part thereof as any person may be legally entitled to."

But while Parliament has in this way made an exception in favor of New Brunswick with respect to the application of moneys arising from fines and penalties recovered under the Summary Convictions Act of Canada, it has in no way parted with a Legislative authority over such application.

In the opinion of the undersigned Section 9, of Chapter 17, is open to objection because the expression "Law or Statute" is not confined to Laws or Statutes within the Legislative authority of the General Assembly, and Section 7, of Chapter 37, because it in terms makes provision for a matter not within such Legislative authority.

The undersigned recommends that in case this Report is approved of, the substance of it be communicated to the Lieutenant-Governor of New Brunswick, and that he be invited to call the attention of his Government to the said Acts, with a view to their amendment, and that further action in respect of the said Acts be deferred.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 11th June,* 1884.

The Committee of the Privy Council have had under consideration a Report, herewith attached, dated 31st January, 1884, from the Minister of Justice, upon the Acts 17 and 37 of the General Assembly of the Province of New Brunswick, passed in the month of May, 1883, and intituled as follows : —

Chap. 17. "An Act in amendment of, and in addition to, an Act passed in the "38th year of the reign of Queen Victoria, intituled : An Act to incorporate the "Town of Moncton.'"

Chap. 37. "An Act to provide for the appointment of a Police Magistrate and to establish a Lock-up House in Shediac, Westmoreland County."

The Minister recommends that the substance of his Report be communicated to the Lieutenant-Governor of New Brunswick, to call the attention of his Government to the said Acts, with a view to their amendment, and that further action in respect of the said Acts be deferred.

The Committee accordingly recommend that a Despatch based upon the Minute, if approved, be transmitted by the Secretary of State to the Lieutenant-Governor of New Brunswick.

JOHN J. McGEE,
Clerk Privy Council.

NEW BRUNSWICK, 47TH VICTORIA, 1884.

1ST SESSION—25TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th March, 1885.

To His Excellency the Governor General in Council :

The undersigned has the honor to report upon the Acts passed by the Legislature of the Province of New Brunswick in the year 1884.

(1.) Having considered the Acts mentioned in the Schedule hereto, the undersigned recommends that they be left to their operation.

(2.) Chapter 11, intituled : "An Act to reduce the expense of maintaining Government House, and relating to the salary of the Private Secretary of the Lieutenant-Governor," has been made the subject of a separate Report.

(3) By Chapter 13, intituled : "An Act respecting the granting of Licenses for sale of Spirituous Liquors," provision is made for the collection of license fees on wholesale and retail licenses issued under "The Liquor License Act, 1883" (Canada).

This Act which unless continued by the Legislature of New Brunswick at its present Session will expire on the first of April next, is under all the circumstances a fair enough exercise of the recognized power of the Legislature to raise a revenue from shop, saloon, tavern and other licenses. A question may possibly arise as to whether the Provincial Legislature has a right to impose license fees on wholesale licenses, but they have hitherto exercised that power and the exercise thereof in this Act does not, in the opinion of the undersigned, afford a reason for the disallowance of the Act.

(4.) Chapter 19, intituled: "An Act respecting Law Stamps," makes provision for the collection, by means of stamps, of fees in legal proceedings in the Supreme Court. These fees it is enacted shall, when collected, be paid to the Receiver General of the Province, and be under the control and management of the Executive Government of the Province.

The Lords of the Judicial Committee of the Privy Council in the appeal of the Attorney-General for Quebec *vs.* Reed, from the Supreme Court of Canada delivered 26th November, 1884, decided that a tax levied in the manner in which the fees under the Act are imposed, is not a direct tax, but an indirect tax, and cannot be imposed by a Provincial Legislature in aid of the general revenue of the Province.

Their Lordships did not express any opinion as to whether or not a Provincial Legislature can authorize the collection of fees in respect of legal proceedings in Courts of Justice, not for the general purposes of the Province, but in aid of a special fund, or of the administration of justice in the Province. The matter is, however, of so much importance to the Province, and the power to impose fees in this and other cases has been so generally exercised by the Provincial Legislatures, that it is desirable to give the Legislature of New Brunswick every opportunity to amend the Act so that it may, if that is possible, be brought within the Legislative authority of that Legislature.

The undersigned respectfully recommends, if this Report is approved,—

1. That the Lieutenant-Governor of New Brunswick be informed that it is the intention of His Excellency to leave to their operation the Acts mentioned in the Schedule hereto and, also, Chapter 13, intituled: "An Act respecting the granting of Licenses for sale of Spirituous Liquors."

2. That the attention of the Lieutenant-Governor be called to the decision of the Judicial Committee of the Privy Council in "The Attorney General of Quebec *vs.* Reed" and to the effect of that decision upon Chapter 19, intituled: "An Act respecting Law Stamps," and that in the meantime the further consideration of the Act be deferred.

A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Titles of the Acts 47th Victoria, A.D. 1884.

Cap. 1. An Act to regulate the Leasing of Fishery Rights in the non-tidal waters pertaining to the Crown as Riparian Proprietor of ungranted Crown Lands, and for the protection of the Fisheries.

Cap. 2. An Act to authorize the Joggins Coal Mining Association to borrow money on Debentures.

Cap. 3. An Act in further amendment of the Charter of the City of Saint John, and the Laws relating to the Civic Government.

Cap. 4. An Act to amend an Act intituled: "An Act to incorporate certain Districts of the Parish of St. Stephen in the County of Charlotte, to be known as the Town of Upper Mills.

Cap. 5. An Act to provide for defraying certain expenses of the Civil Government of the Province.

Cap. 6. An Act to provide for the repair and improvement of Roads and Bridges, and other Public Works and Services.

Cap. 7. An Act to provide for the Survey, Reservation and Protection of Lumber Lands.

Cap. 8. An Act relating to Scalers of Lumber cut upon Crown Lands.

Cap. 9. An Act to revive and continue the several Acts relating to the destruction of Bears.

Cap. 10. An Act in amendment of Chapter 34, 45th Victoria, intituled: "An Act in aid of the construction of Railways and other works in this Province."

Cap. 12. An Act in amendment of the Law relating to Schools.

Cap. 14. An Act in amendment of Chapter 51 of the Consolidated Statutes, "County Courts."

Cap. 15. An Act to amend Chapter 12 of 46th Victoria, intituled: "An Act to authorize the Funding of the Floating Debt of the Province."

Cap. 16. An Act to authorize a Grant of certain Lands to André Cushing and George Byron Cushing or their assigns.

Cap. 17. An Act to amend "The New Brunswick Medical Act, 1881."

Cap. 18. An Act to amend Chapter 99 of the Consolidated Statutes of 'Municipalities' so far as relates to the County of Charlotte.

Cap. 20. An Act to incorporate the New Brunswick Pharmaceutical Society, and to regulate the sale of Drugs and Medicines.

Cap. 21. An Act to authorize and empower the County Council of the Municipality of York to issue Debentures to take up certain other Debentures.

Cap. 22. An Act respecting the Union of certain Methodist Churches therein named.

Cap. 23. An Act to authorize the Town of Moncton to borrow money for a Market Building.

Cap. 24. An Act to authorize the Parish of Beresford, Gloucester County, to contract a Loan to pay off a certain Indebtedness.

Cap. 25. An Act to amend an Act intituled: "An Act for establishing and maintaining a Police Force in the Town of Newcastle, in the County of Northumberland."

Cap. 26. An Act to amend the Law relating to Rates and Taxes in the Municipality of the City and County of Saint John.

Cap. 27. An Act to incorporate the Bathurst Driving Park Association.

Cap. 28. An Act in addition to an Act passed in the 40th year of the Reign of Her Majesty, intituled: "An Act to consolidate and amend the various Acts of Assembly of the Province of New Brunswick relating to the Albert Railway Company."

Cap. 29. An Act in addition to an Act intituled: "An Act to incorporate the Governors of the Wiggins Male Orphan Institution."

Cap. 30. An Act to incorporate the De Wolfe Corner Union Church Company, in the Parish of Saint James, Charlotte County.

Cap. 31. An Act for the purpose of winding up the affairs of the South Bay Boom Company.

Cap. 32. An Act to continue an Act intituled: "An Act to revive, continue and amend the several Acts relating to the Elgin, Petitcodiac and Havelock Railway Company."

Cap. 33. An Act to amend an Act intituled: "An Act to further amend an Act to incorporate certain Districts in the Parish of Saint Stephen, in the County of Charlotte, to be known as the Town of Saint Stephen."

Cap. 34. An Act to authorize the Rector, Churchwardens and Vestry of Saint Mary's Church, in the Parish of Saint Mary's, York County, to change the locality of their Parish Church.

Cap. 35. An Act to enable the Town of Woodstock to aid the New Brunswick Railway Company in the erection of Workshops and other buildings in said Town.

Cap. 36. An Act in addition to, and in explanation of, Chapter 99 of the General Assembly of the Province of New Brunswick, passed in the 38th year of the Reign of Her present Majesty, intituled: "An Act respecting the Union of certain Presbyterian Churches therein named."

Cap. 37. An Act to render valid the County Valuation made in the County of Restigouche in the year 1883.

Cap. 38. An Act to incorporate "The Woman's Home Missionary Society," within the bounds of the Presbytery of Saint John, in connection with the Presbyterian Church in Canada.

Cap. 39. An Act to authorize the Rector, Churchwardens and Vestry of the Parish of Rothesay, in the County of King's to dispose of certain lands.

Cap. 40. An Act to amend an Act intituled: "An Act for establishing and maintaining a Police Force in the Town of Chatham, in the County of Northumberland."

Cap. 41. An Act in further amendment of the several Acts relating of the Sewerage and Water Supply of the City of Fredericton.

Cap. 42. An Act establishing a Common Field on certain Marsh Lands in Hopewell in the County of Albert.

Cap. 43. An Act to authorize the Moncton Cotton Manufacturing Company to provide a Sinking Fund for the redemption and payment of Debentures.

Cap. 44. An Act to repeal an Act intituled: "An Act to further amend an Act to incorporate the Saint Martin's and Upham Railway Company," and to make other provisions in lieu thereof.

Cap. 45. An Act relating to the Islands and Intervales in the County of York.

Cap. 46. An Act relating to Wardens and Councillors of County Municipalities, and collecting Justices.

Cap. 47. An Act to incorporate the Elgin Manufacturing Company.

Cap. 48. An Act to empower the Trustees of the Baptist Chapel, Main Street, Town of Woodstock, to sell and convey certain Lands in said Town.

Cap. 49. An Act to incorporate the Trustees of the Brussels Street Baptist Chapel in the City of Saint John, and for other purposes connected therewith.

Cap. 50. An Act to incorporate "The Trustees of the Owens' Art Gallery" and to provide for the support and management of the same.

Cap. 51. An Act to authorize the Municipality of the City and County of Saint John, to effect a Loan for the purpose of enabling the Commissioners of the General Public Hospital in Saint John, to redeem certain Debentures issued by them under 23rd Victoria, Chapter 61.

Cap. 52. An Act to authorize the Rector, Churchwardens and Vestry of the Church of Saint Martin in the Wood, in the Parish of Shediac, to sell certain parts of their Glebe and Church Lands.

Cap. 53. An Act in amendment of, and addition to, 44th Victoria, Chapter 43 intituled: "An Act relating to Sewerage in the Town of Portland."

Cap. 54. An Act further relating to the City of Fredericton.

Cap. 55. An Act to amend Chapter 40, of 38th Victoria, intituled: "An Act to incorporate the Town of Moncton."

Cap. 56. An Act to further continue the several Acts relating to the North Shore and Salisbury Junction Railway Company.

Cap. 57. An Act to incorporate the Harvey Skating Rink Company.

Cap. 58. An Act relating to the New Brunswick Antimony Company, and to consolidate the Capital Stock of the said Company.

Cap. 59. An Act regulating the erection of Wire Fences.

Cap. 60. An Act to incorporate the Union Baptist Education Society.

Cap. 61. An Act to incorporate the Madawaska Mill and Boom Company.

Cap. 62. An Act to authorize the Trustees of Saint Andrew's (Presbyterian) Church, in the Parish of Saint Mary's, York County, to sell and convey certain Lands.

Cap. 63. An Act in amendment of the Acts relating to Water Supply and Sewerage for Carleton, City of Saint John.

Cap. 64. An Act to permit the "Restigouche Salmon Club," a Company incorporated in the Province of Quebec, to hold Real Estate in the Province of New Brunswick.

Cap. 65. An Act to authorize the Trustees of School District Number Ten, Caraquet, Gloucester County, to issue Debentures.

Cap. 66. An Act to incorporate "The Castle Hotel Company.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th April*, 1885.

The Committee of the Privy Council have had before them a Report dated 26th March, 1885, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of New Brunswick in the year 1884;

The Committee advise, on the said Report of the Minister of Justice, that the power of disallowance be not exercised with respect to any of the said Acts, numbered from 1 to 66 inclusive.

The Committee further advise that a Despatch be forwarded by the Secretary of State to the Lieutenant-Governor directing his attention to the observations in the Report of the Minister of Justice on several of the said Acts.

All which is respectfully submitted for Your Excellency's approval.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th March, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon an Act passed by the Legislature of New Brunswick in the year 1884, Chaptered 11 and intituled: "An Act to reduce the expense of maintaining Government House, and relating to the salary of the Private Secretary of the Lieutenant-Governor."

This Act provides that the salary of the Private Secretary of the Lieutenant-Governor shall not be paid by the Province after the expiration of the term of office of His Honor the present Lieutenant-Governor. When, in 1837, the casual and territorial revenues of the Crown, in the Province of New Brunswick, came under the control of the Legislature of the Province, an Act was passed granting to the Crown a yearly sum of fourteen thousand five hundred pounds for the support of the Civil Government of the Province. Among the officers on the Civil List for whom provision was made by this grant, was the Private Secretary to the Lieutenant-Governor. This Act was in force in New Brunswick at the time of the Union, and has never been repealed. After the Union the Province continued to make provision for the salary of the Private Secretary as he was an officer of the Province and not of the Dominion. The amount of the salary was, the undersigned is informed, included in the estimates upon which a vote of the House of Assembly was taken, and that course was continued until the House refused to vote the amount, when the Attorney-General of

the Province, the Honorable A. R. Wetmore, advised the Lieutenant-Governor that the salary of his Secretary was a charge upon the revenues of the Province, and ought to be paid ; the Attorney-General also informed the House of Assembly of his view of the Law.

That the Lieutenant-Governor should have a Secretary cannot, the undersigned thinks, be doubted, and under the circumstances, and the respective responsibilities assumed at the Union by Canada and by the Province of New Brunswick, the Government of Canada had reason to expect that the Province of New Brunswick would continue to make provision for the Secretary's salary.

The undersigned, therefore, recommends that if this Report is approved the substance of it be communicated to the Lieutenant-Governor of New Brunswick for the information of his Government, with an intimation that His Excellency's Government will be gratified if the matter is reconsidered and provision made for the payment of the salary of the Lieutenant-Governor's Private Secretary as formerly, and that in the meantime the further consideration of the Act be deferred.

A. CAMPBELL.

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council approved by His Excellency the Governor General in Council on the 4th April*, 1885.

The Committee of the Privy Council have had before them a Report, dated 24th March, 1885, from the Minister of Justice, with respect to the Act passed by the Legislature of the Province of New Brunswick in the year 1884, Chaptered 11, and intituled: "An Act to reduce the expense of maintaining Government House, and relating to the salary of the Private Secretary of the Lieutenant-Governor."

The Committee concur in the Report of the Minister of Justice and they advise that a Despatch based on this Minute, if approved, be transmitted to the Lieutenant-Governor of New Brunswick for the information of his Government, and that in the meantime the further consideration of the Act be deferred.

JOHN J. McGEE,

Clerk Privy Council.

MANITOBA, 35TH VICTORIA, 1871.

1ST SESSION—1ST PARLIAMENT.

(*Telegram.*)

ST. PAUL, 14th June, 1871.

To Governor ARCHIBALD, Fort Garry,
Care Mr. KITSON.

By telegraph from Ottawa, Ont., 14th June.

When may we expect Manitoba statements ?

JOHN A. MACDONALD.

Lieutenant-Governor Archibald to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, SILVER HEIGHTS.

SIR,—I have the honor to acknowledge the receipt of a telegraphic despatch from you dated Ottawa and St. Paul the 14th June, 1871, enclosed to me by Mr. Kitson, of which I forward you a copy.

The word "statements" in the Despatch, I presume, was meant for Statutes.

I have so read it, and have forwarded you a reply, of which, also, I enclose a copy.

Agreeably to the promise in my telegram, I send you by this mail six copies of the Supreme Court Act, and by next mail shall send you further Acts up to page 50, or thereabouts.

I have been pressing actively the publication of the laws ever since the House rose. If I had any notion that the delay would have been so great, I should have had a manuscript copy of the whole made and forwarded to you.

Whenever the printing is complete, I shall transmit the whole in sheets.

The four Statutes I have reserved are:

1st. One which I have had passed to carry out the pledge made by this Government to the Government of Canada in reference to the North-Western Telegraph Company, who were promised certain powers within the Province.

It seems to me that this being a line to connect with a line in a foreign territory, the jurisdiction was with the Dominion Parliament.

2nd. A Bill to authorize the construction of a bridge over Red River. This is a navigable water, and no interruption ought to be offered to the navigation, and the Bill was objectionable on that ground, to say nothing of the subject of navigation falling within the province of the Parliament at Ottawa.

3rd and 4th were Railway Bills. One to incorporate a Company to build from Fort Garry to Pembina, another from the Portage to St. Joseph, parallel with the former.

The language of all the Bills for Railway and Telegraph confines them to British Territory, but they are really intended to connect with the foreign lines, and, not

caring to stop the Bills, I have reserved them for the consideration of His Excellency the Governor General, so as that you may settle the question of jurisdiction.

I have, &c.,

ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces.

Lieutenant-Governor Archibald to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, SILVER HEIGHTS, 14th July, 1871.

SIR,—Adverting to my Despatch No. 209, of this date, I have now the honor to enclose you manuscript copies of Bills forming Chapters 44, 45, 46 and 47, passed by the two Houses of the Legislature of Manitoba at its recent Session, and which I have already informed you, I reserved for the signification of the pleasure of His Excellency the Governor General.

Chapter 45 is intituled: "An Act to authorize the construction of a Telegraph Line within this Province."

This Act was passed in consequence of the correspondence between you and myself on the subject of the North-Western Telegraph Company's agreement to construct a telegraph line to Fort Garry.

In your Despatch No. 426, under date of the 13th September last, you enclosed me copy of the articles of agreement; the fourth clause of which imposed upon the Governor General the obligation of procuring from the Government of Manitoba the right of property required by the proposed telegraph line. I communicated to you in my Despatch, No 11, the action of my Government on this matter, enclosing copy of the Minute of Council passed therein.

I had expected that some action would have been taken by the Company to declare and ask for the rights of the property they required.

No such application being made, I caused to be introduced and carried the Act now enclosed.

Still, I felt that we were probably exceeding the jurisdiction conferred upon us by the Union Act, and, therefore, while passing the Act to redeem our pledge, I reserve it for His Excellency the Governor General to act upon it, as the Minister of Justice should advise.

The line in question is, under the articles of agreement which gave rise to the Legislation, a line between the Dominion and a foreign country, and, as such, the Legislation would seem to appertain to the Dominion.

Bills Nos. 44 and 46 provide for the construction of Railways in this Province, one in a general term, from any point or points in Manitoba; the other, from Lake Manitoba to the Boundary Line, near St. Joseph.

The intention of the first Act was to cover the ground between Fort Garry and Pembina. Of the second, to cover a parallel line commencing at or near the Portage, each line to communicate with the railway system of the United States.

They were, therefore, liable to the same objection as the Telegraph Bill, while one of them was open to still another. Assuming the jurisdiction of the Legislature to be sufficient, it did not seem to me as a question of discretion, to be wise to allow any Company, organized under the general wording of the first Act, to embarrass or thwart any operations that might be undertaken on the Interoceanic Railway, under the provisions of an Act of the Dominion.

Bill No. 47 authorizes the construction of a bridge across Red River.

This river is navigable at certain seasons for 400 miles above this, and at all times for a considerable distance above and below the point indicated as a site for the bridge.

Without entering into the question of jurisdiction, it did not seem to me desirable to give authority to make any obstruction to the navigation of the River.

This Bill not only makes no provision for the passing of ships, but exposes to heavy penalties any interference with what, as an obstruction to a public highway, would at Common Law be liable to abatement as a nuisance.

The intention, I understand, was to construct the bridge with boats moored in the river, the spaces between the boats being connected by a timber flooring.

I have, &c.,

ADAMS G. ARCHIBALD,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th October, 1871.

The undersigned to whom was referred certified copies of the Acts passed by the Legislature of the Province of Manitoba in the first Session of the first Parliament thereof, held in the 34th year of Her Majesty's reign, has the honor to report:—

That he has carefully examined the same, and is of opinion that the Legislation thereby effected is within the jurisdiction of the Legislature of Manitoba, except as regards certain powers conferred upon a Police Magistrate by the second section of Chapter 9, "An Act authorizing the appointment of Magistrates and Coroners."

This section provides that a Police Magistrate "shall have all the powers possessed by one, two or more Justices of the Peace.

Now it is obvious that if an Act of the Dominion Parliament relating to Criminal Law, provided for the trial of an offender before two Justices of the Peace, no Provincial Legislature has the power of amending such provision, by giving any one person, although a Judge or Stipendiary or Police Magistrate, the powers conferred by the Dominion Act on two Justices.

It is suggested that the Act in question should be amended at the next Session of the Legislature by substituting the following words for those above quoted, viz: "in addition to all the powers possessed by any one Justice of the Peace, shall also have all the powers conferred by any Statute of this Province upon two or more Justices of the Peace."

The undersigned, therefore, recommends that all the Acts, with the exception of Chapter 9, be left to their operation, and that the latter be reserved for further report, when the Legislature shall have had an opportunity of amending the same as suggested.

All of which is respectfully submitted.

JOHN A. MACDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 19th October,* 1871.

On a Memorandum, dated 17th October, 1871, from the Honorable the Minister of Justice, to whom was referred certified copies of the Acts passed by the Legislature of the Province of Manitoba, in the First Session of the First Parliament thereof, held in the 34th year of Her Majesty's reigh, reporting :—

That he has carefully examined the same, and is of opinion that the Legislation thereby effected is within the jurisdiction of the Legislature of Manitoba, except as regards certain powers conferred upon a Police Magistrate by the second section of Chapter 9, "An Act authorizing the appointment of Magistrates and Coroners."

That the section provides that a Police Magistrate "shall have all the powers possessed by one, two or more Justices of the Peace."

That it is obvious that if an Act of the Dominion Parliament, relating to Criminal Law, provided for the trial of an offender before two Justices of the Peace, no Provincial Legislature has the power of amending such provision by giving any one person, although a Judge, or Stipendiary or Police Magistrate, the powers conferred by the Dominion Act on two Justices.

That the Act in question should, he suggests, be amended at the next Session of the Legislature by substituting the following words for those above quoted, viz. :—"In addition to all the powers possessed by any one Justice of the Peace, shall also have all the powers conferred by any Statute of this Province upon two or more Justices of the Peace."

He, therefore, recommends that all the Acts, with the exception of Cap. 9, be left to their operation, and that the latter be reserved for further report, when the Legislature shall have had an opportunity of amending the same as suggested.

The Committee submit the foregoing recommendation for Your Excellency's approval, and advise that the Acts in question, with the exception above made, be left to their operation accordingly.

Certified.

W. H. LEE.
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th November, 1871.

The undersigned, to whom was referred the Despatch of the Lieutenant-Governor of Manitoba, dated the 14th July last, enclosing copies of four Bills passed by the Legislature of Manitoba, but reserved by him for the signification of the pleasure of His Excellency the Governor General, has the honor to report as follows :—

Chapter 44.—The Bill, Chap. 44, intituled : "An Act to empower the Lieutenant-Governor in Council to authorize the construction of Railways in this Province," empowers the Lieutenant-Governor in Council to authorize, by Order in Council, "the construction, by any efficient Company, of a line or lines of railway from any point or points within the Province to any other point or points within it, and, for that purpose, to give such Company power to enter upon any lands required for such construction, and for all work in connection therewith, and to lay a line or lines of railway thereon, and generally to do any act or thing which may be necessary in constructing and maintaining such line or lines of railway."

This Act seems to be contrary to the first principles of Legislation. By it the Lieutenant-Governor in Council has the power to give to any association of individuals the right to built Railways anywhere in the Province, and to take possession of any lands whether belonging to the Crown or to individuals, no sufficient provision being

made for compensation for any infringement of the rights of property or other vested rights.

As the Government of Canada is pledged to construct a line of Railway connecting the Atlantic and Pacific, and as such Railway will pass through the Province of Manitoba, it is obvious that this Act, if put in force, might put it in the power of any Company authorized to build railways, to thwart or greatly impede any operations which might be undertaken for the construction of such Inter-oceanic Railway.

The Act is so objectionable in every respect that the undersigned respectfully recommends that His Excellency's assent be not given to it.

Chap. 45.—The Bill, Chap. 45, intituled: "An Act to authorize the construction of a Telegraph Line in this Province" empowers the Lieutenant-Governor "to authorize, by Order in Council, the North-Western Telegraph Company or other efficient Company, to construct a line or lines of telegraph from any one or more points within the Province, to any other point within it, and for that purpose to give such Company power to enter upon any lands required for such construction, for the erection of posts or other work in connection therewith, and to erect posts thereon and to attach wires thereto, and generally to do any act or thing which may be necessary in erecting or constructing and maintaining such Telegraph Line."

The North-Western Telegraph Company mentioned in this clause, the undersigned understands to be an incorporated Company existing in the United States, which desires to extend its line across the boundary to the Town of Winnipeg. If such be the case, the Act should more properly be passed by the Parliament of the Dominion.

The Act, however, is objectionable for the reasons given with respect to the one previously mentioned, and the undersigned recommends that His Excellency's assent be not given to it. There will be no difficulty in obtaining an Act of the Canadian Parliament authorizing the extension of the line of telegraph from the frontier to Winnipeg, under the agreement entered into between the Canadian Government and the North-Western Company, to which reference is made by the Lieutenant-Governor in his Despatch.

Chapter 46.—The Bill, Chap. 46, intituled: "An Act to incorporate The Western Railway of Manitoba," authorizes such Company to construct a Railway "from a point at or near Lake Manitoba, in the Province of Manitoba, to a point within the Province in proximity to St. Joseph, in the State of Dakota, in the United States, and to construct branch lines from the said main line to other points within the said Province.

As this Act might interfere with the line of the Inter-Oceanic Railway to be built by the Government of the Dominion, the undersigned has the honor to recommend that His Excellency's assent be withheld from it for the present, until the line of such Inter-Oceanic Railway be settled by the Dominion Parliament.

Chapter 47.—The Bill, Chap. 47, intituled: "An Act to incorporate the 'Red River Bridge Company' of Manitoba, and to authorize the construction of a Bridge across the Red River at a point opposite or near Fort Garry, and to levy tolls on said Bridge," is objectionable, inasmuch as the proposed bridge would interfere with and obstruct the navigation of the said river, a stream which, as the Lieutenant-Governor mentions in his Despatch, is navigable at certain seasons for 400 miles above the Town of Winnipeg.

The construction of a bridge across a river of such size and importance is, in the highest degree, inexpedient, and the undersigned, therefore, recommends that His Excellency's assent be withheld from such Act.

All which is respectfully submitted.

JOHN A. MACDONALD,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th November,* 1871.

The Committee of Council have had under consideration the annexed Memorandum, dated 25th November, 1871, from the Honorable the Minister of Justice, on the Despatch of the Lieutenant-Governor of Manitoba, of 14th July last, enclosing copies of four Bills passed by the Legislature of that Province, but reserved by him for the signification of Your Excellency's pleasure thereon; and they respectfully advise that the said Report be approved, and that the said Bill be dealt with in the manner therein recommended.

Certified.

(Signed) WM. H. LEE,
Clerk Privy Council.

MANITOBA, 35TH VICTORIA, 1872.

2ND SESSION—1ST PARLIAMENT.

Lieutenant-Governor Archibald to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, FORT GARRY, 14th April, 1872.

SIR,—I have been waiting till the Bills, reserved by me at the close of last Session for the signification of the pleasure of His Excellency the Governor General, should be printed before making a Report of the grounds upon which I thought fit to reserve them.

They are now in print, and I have the honor to forward to you two copies of the Bills, with some observations upon them, for the information of the Minister of Justice.

1. "A Bill to incorporate the Manitoba Central Railway Company."

The subject with which this Bill deals would more appropriately come within the jurisdiction of Parliament. Not only so, but the Bill is wretchedly drawn. By the second clause, it incorporates, as part of it, several sections of some Railway Act, which it does not specify. If it means to refer to the Dominion Act, it embodies, as part of our Legislation, a code, much of which touches matters not only beyond our jurisdiction, but totally inapplicable to a private Company, inasmuch as the clauses incorporated, provide for the construction of the Intercolonial Railway. If this be not the Act intended to be embodied, it must mean the Railway Act of some other Province, for we have no Act of the kind. Under these circumstances, the Act would be useless, and besides a discredit to our Statute-Book; and on these grounds I thought it best to reserve it.

2. "An Act to incorporate the Assiniboine and Red River Navigation Company."

It seems to me this Act trenches upon the ground reserved for Parliament. We certainly have the power of incorporating Companies for local objects; but, I take it

these objects must be such as the Local Legislature has the right to deal with. Now, this Bill, meditating to deal with navigation and shipping, seems to me to be at variance with the 10th Sub-section of the 91st Clause of the Union Act; but, if the subject be within the jurisdiction of the Local Legislature, I do not see any objection to the Bill in point of expediency.

3. "An Act to constitute and incorporate the Law Society of Manitoba."

This Bill, even if the policy were sound, under any circumstances, seemed to me premature. In a country like this, obstacles should not be thrown in the way of any person of good standing at the Bar of any other Province to be admitted to the practice of the law here. If the provisions of the Union Act, which confine the selection of Judges in any Province to the Bar of that Province, should be, as I think they are, applicable to Manitoba, it would not be desirable so to force the admission here, as to restrict the Government at Ottawa, in their selection of Judges, to such persons as the existing members of the Bar here might think fit to admit.

But another important objection is the power given under this Bill to the Bar to regulate their own fees. Whether that is desirable, in any stage of the history of the Bar of a country, there can be no doubt that it would be a most dangerous power to extend to the Bar of this Province in its present condition.

4. "An Act respecting Land Surveyors."

This is objectionable on the same grounds. It creates a monopoly where we are better, I think, without it. We need for the work of this country not only first class Surveyors, who could undergo the examination prescribed by this Act, but also men moderately acquainted with the principles of surveying. There are at this moment in the Province several persons who have been engaged more or less all their lives in rough surveys, who can run a line with the compass, and in whose judgment their neighbors have confidence, and yet who could not pass such an examination as the Bill contemplates, and would be subject to penalties if they acted as Surveyors after the Bill comes into operation. I see no reason why this class of men should not be allowed to continue their services, or why others who may come here similarly qualified should not be permitted to do the kind of rough work, which a new country requires.

I have, &c.,

(Signed) ADAMS G. ARCHIBALD,

Lieutenant-Governor.

The Hon.

The Secretary of State for the Provinces.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th September, 1872.

The undersigned has the honor to report that he has had under consideration four Acts passed by the Legislature of the Province of Manitoba, at its last Session, which were reserved for the signification of the pleasure of His Excellency the Governor General, and transmitted by a Despatch from His Honor the Lieutenant-Governor of Manitoba, bearing date the 14th April, 1872. They are as follows:—

1. "An Act to incorporate the Manitoba Central Railway Company."

This Act appears to be within the competence of the Provincial Legislature. A portion of the line, however, proposed to be constructed by this Act, will extend across the country through which the Pacific Railway to be constructed from Canada to British Columbia, must pass. It would therefore seem wise to postpone granting an Act of Incorporation to a Company which may rival, prejudice, or obstruct the more important line.

The Act is, besides, liable to the objection taken by the Lieutenant-Governor in his Despatch. He says:

"By the second clause it incorporates, as part of it, several sections of some Railway Act, which it does not specify. If it means to refer to the Dominion Act, it embodies, as part of our Legislation, a code much of which touches matters, not only beyond our jurisdiction, but totally inapplicable to a private company, inasmuch as the clauses incorporated provide for the construction of the Intercolonial Railway.

"If this be not the Act intended to be embodied, it must mean the Railway Act of some other Province, for we have no Act of the kind. Under these circumstances the Act would be useless, and besides a discredit to our Statute Book."

Under these circumstances the undersigned recommends that His Excellency do not give his assent to this measure.

2. "An Act to incorporate the Assiniboine and Red River Navigation Company."

With respect to this Bill the Lieutenant-Governor in his Despatch says :—

"It seems to me this Act trenches upon the ground reserved for Parliament. We certainly have the power of incorporating Companies for local objects, but I take it those objects must be such as the Local Legislature has the right to deal with. Now, this Bill, meditating to deal with navigation and shipping, seems to me to be at variance with the 10th Subsection of the 91th Clause of the Union Act."

With great respect for the opinion of the Lieutenant-Governor, the undersigned is of opinion that the Act is within the competence of the Local Legislature. It is however, objectionable, inasmuch as in its second clause it provides that the shareholders of the Company shall be, to all interests, partners in the same.

This provision is contrary to the first principles which govern the incorporation of Companies : that such Corporations are distinct entities in themselves. The making of the shareholders partners in the Company, to all intents, renders them liable to sue and be sued in their individual capacity.

The clause goes on to say that the shareholders shall not be liable beyond the amount of their respective shares in the Company.

It is apprehended that under this clause, a creditor might bring an action against the Corporation, and proceed to judgment and execution against the property of such Corporation, and also sue the shareholders as individuals and recover against them individually to the extent of the amount of their respective shares.

This it is presumed, is not the intention or desire of the shareholders.

If the promoters of this Bill desire to do business on the Red River beyond the bounds of Manitoba, or within the United states, the Act of Incorporation should be obtained from the Dominion Parliament. Under these circumstances the undersigned recommends that His Excellency do not give his assent to this Bill.

3. "An Act to constitute and incorporate the Law Society of Manitoba."

With respect to this Act the Lieutenant-Governor in his Despatch says :—

"This Bill even if the policy were sound, under any circumstances, seemed to me premature. In a country like this obstacles should not be thrown in the way of any person of good standing at the Bar of any other Province, to be admitted to the practice of the Law here. If the provisions of the Union Act which confine the selection of Judges in any Province, to the Bar of that Province, should be as I think they are, applicable to Manitoba, it would not be desirable so to fence the admission here as to restrict the Government at Ottawa in their selection of Judges, to such persons as the existing members of the Bar here might think fit to admit. But another important objection, is the power given under this Bill, to the Bar, to regulate their own fees. Whether that is desirable, in any stage of the history of the Bar of a Country, there can be no doubt that it would be a most dangerous power to extend to the Bar of this Province in its present condition."

The grounds taken by His Honor against sanctioning this Bill are so strong, that the undersigned begs leave to recommend that the assent of the Governor General be not given to it.

4. "An Act respecting Land Surveyors."

The Lieutenant-Governor in his Despatch says, with regard to this Act: —

"This is objectionable on the same grounds. It creates a monopoly where we are better, I think, without it. We need for the work of this country, not only first

class Surveyors, who could undergo the examination prescribed by this Act, but also men moderately acquainted with the principles of surveying.

"There are at this moment in the Province, several persons who have been engaged more or less all their lives in rough surveys, who can run a line with the compass, and in whose judgment their neighbors have confidence, and yet who could not pass such an examination as the Bill contemplates and would be subject to penalties if they acted as Surveyors after the Bill comes into operation.

"I see no reason why this class of men should not be allowed to continue their services, or why others, who come here, similarly qualified, should not be permitted to do the kind of rough work which a new country requires."

There is great force in what His Honor says, and it appears to the undersigned, that in the infant state of the Province of Manitoba, it would have been well if the Legislature had encouraged competent Surveyors from all the Provinces, to become settlers there, by giving them a legal status, on the production of the necessary certificate from their several Provinces.

This, however, is for the consideration of the Provincial Legislature.

On the whole, the undersigned recommends that the view taken by the Lieutenant-Governor in his Despatch be concurred in, and that the Governor General's assent be not given to the Bill in question.

All which is respectfully submitted.

(Signed) JOHN A. MACDONALD.
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 30*th December,* 1872.

On a Memorandum dated 24th September, 1872, from the Hon. the Minister of Justice, reporting that he has had under consideration four Acts passed by the Legislature of the Province of Manitoba at its last Session, which were reserved for the signification of the pleasure of His Excellency the Governor General, and transmitted by a Despatch from His Honor the Lieutenant-Governor of Manitoba, bearing date the 14th April, 1872, that these Acts are as follows :—

1. "An Act to incorporate the Manitoba Central Railway Company."

That this Act appears to be within the competence of the Provincial Legislature; that a portion of the line, however, proposed to be constructed by this Act, will extend across the country through which the Pacific Railway to be constructed from Canada to British Columbia must pass.

That it would seem, therefore, wise to postpone granting an Act of Incorporation to a Company which may rival, prejudice, or obstruct the more important line.

That the Act is besides liable to the objection taken by the Lieutenant-Governor. In his Despatch, he says:

"By the second clause, it incorporates, as part of it, several sections of some Railway Act which it does not specify. If it means to refer to the Dominion Act, it embodies as part of our Legislation, a code, much of which touches matters not only beyond our jurisdiction, but totally inapplicable to a private Company, inasmuch as the clauses incorporated provide for the construction of the Intercolonial Railway, If this be not the Act intended to be embodied, it must mean the Railway Act of some other Province, for we have no Act of the kind. Under these circumstances the Act would be useless and, besides, a discredit to our Statute Book"

That, under these circumstances, he, the Minister of Justice, recommends that Your Excellency do not give your assent to this measure.

2. "An Act to incorporate the Assiniboine and Red River Navigation Company."

That, with respect to this Bill, the Lieutenant-Governor in his Despatch says:—

"It seems to me this Act trenches upon the ground reserved for Parliament. We certainly have the power of incorporating Companies for local objects, but I take

it those objects must be such as the Local Legislature has the right to deal with. Now this Bill, meditating to deal with navigation and shipping, seems to me to be at variance with the 10th Sub-section of the 91st Clause of the Union Act."

That with great respect for the opinion of the Lieutenant-Governor, he, the Minister of Justice, is of opinion that the Act is within the competence of the Local Legislature. That it is, however, objectionable, inasmuch as in its second clause it provides that the shareholders of the Company shall be, to all intents, partners in the same.

That this provision is contrary to the first principles which govern the incorporation of Companies. That such Corporations are distinct entities in themselves. That the making of the shareholders partners in the Company, to all intents, renders them liable to sue and be sued in their individual capacity.

That the clause goes on to say that the shareholders shall not be liable beyond the amount of their respective shares in the Company.

That it is apprehended that under this clause, a creditor might bring an action against the Corporation, and proceed to judgment and execution against the property of such Corporation, and also sue the shareholders as individuals, and recover against them individually to the extent of the amount of their respective shares.

That this, it is presumed, is not the intention or desire of the shareholders.

That if the promoters of this Bill desire to do business on the Red River beyond the bounds of Manitoba, or within the United States, the Act of Incorporation should be obtained from the Dominion Parliament.

That under these circumstances, he, the Minister of Justice recommends that Your Excellency do not give your assent to the Bill.

3. "An Act to constitute and incorporate the Law Society of Manitoba."

That with respect to this Act, the Lieutenant-Governor in his Despatch says:—

"This Bill, even if the policy were sound, under any circumstances, seemed to me premature. In a country like this, obstacles should not be thrown in the way of any person of good standing at the Bar of any other Province, to be admitted to the practice of the Law here, if the provisions of the Union Act, which confine the selection of Judges in any Province to the Bar of that Province, should be, as I think they are, applicable to Manitoba, it would not be desirable so to fence the admission here as to restrict the Government at Ottawa in their selection of Judges to such persons as the existing members of the Bar here might think fit to admit. But another important objection is the power given under the Bill to the Bar, to regulate their own fees. Whether that is desirable in any stage of the history of the Bar of a country, there can be no doubt that it would be a most dangerous power to extend to the Bar of this Province in its present condition."

That the grounds taken by His Honor against the sanctioning of this Bill are so strong that he, the Minister of Justice, recommends that the assent of the Governor General be not given to it.

4. "An Act respecting Land Surveyors."

That the Lieutenant-Governor in his Despatch says, with regard to this Act:—

"That it is objectionable on the same grounds—it creates a monopoly where we are better, I think, without it. We need, for the work of this country, not only first-class Surveyors, who could undergo the examination prescribed by this Act, but also men moderately acquainted with the principles of surveying. There are at this moment in the Province several persons who have been engaged more or less all their lives in rough surveys, who can run a line with the compass, and in whose judgment their neighbors have confidence, and yet who could not pass such an examination as the Bill contemplates, and would be subject to penalties if they acted as Surveyors after the Bill comes into operation.

"I see no reason why this class of men should not be allowed to continue their services, or why others who may come here similarly qualified, should not be permitted to do the kind of rough work which a new country requires."

That there is great force in what His Honor says, and it appears to him, the Minister of Justice, that in the infant state of the Province of Manitoba, it would have

been well if the Legislature had encouraged competent Surveyors from all the Provinces to become settlers there, by giving them a legal status on the production of the necessary certificate from their several Provinces.

That this, however, is for the consideration of the Provincial Legislature.

That, on the whole, he, the Minister of Justice recommends that the view taken by the Lieutenant-Governor in his Despatch be concurred in, and that Your Excellency's assent be not given to the Bill in question.

The Committee concur in the above recommendations of the Minister of Justice, and advise that Your Excellency's assent be not given to the Bills alluded to.

Certified,

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th April, 1873.

The undersigned to whom was referred a certified copy of the Statutes of Manitoba, passed in the Session held in the thirty-fifth year of Her Majesty's reign, has the honour to report as follows :—

That the Act, Chapter 3, intituled: "An Act to amend an Act to establish a Supreme Court in the Province of Manitoba," provides, in its 5th Section, that no Chief Justice or Puisne Judge of the Supreme Court shall be appointed unless such person is able to speak both the English and French languages.

This provision, in the opinion of the undersigned, is *ultra vires*, as by reference to the "British North America Act, 1867," Clause 97, it will be found that the only limit upon the discretion of the Governor General, in selecting such Judges for the several Provinces, is, that they shall be from the Bars of the Provinces respectively.

It would appear, therefore, that this provision is ineffectual, as being beyond the jurisdiction of the Legislature of Manitoba.

That the Act (Chap. 6) intituled: "An Act for the registration of Voters," provides in effect in its 21st and 22nd Clauses, that any Judge refusing or neglecting to perform any duty imposed upon him by the Act shall be liable to a fine.

This, in the opinion of the undersigned, is objectionable, as it would seem to be inconsistent with the dignity of a Judge of a Superior Court that a pecuniary penalty should be imposed upon him for neglect of duty.

By the "British North America Act, 1867," Clause 99, Judges of the Superior Courts hold office during good behavior, but are removable by the Governor General on Address of the Senate and House of Commons. This clause provides fully the manner in which Judges can be called to account for neglect of duty, and, in the opinion of the undersigned, their position should not be otherwise affected by Legislation such as is contained in the Act under consideration.

The undersigned does not, under the circumstances, recommend Your Excellency to disallow the two Acts above quoted, but would respectfully recommend that the attention of the Government of Manitoba be called to them, with a view to their amendment.

The Government of Manitoba should also, in the opinion of the undersigned, be given to understand that His Excellency the Governor General does not consent to the limitation of his power of selection of Judges contained in the Act (Chapter 3), and will not feel bound by it in any appointments to the Bench.

He has, therefore, the honor to recommend that all Acts passed by the Legislature of Manitoba, in the Session held in the 35th year of Her Majesty's reign, be left to their operation.

All of which is respectfully submitted.

(Signed) JOHN A. MACDONALD.
Minister of Justice.

TO COUNCIL—NOTE BY HIS EXCELLENCY.

SUBJECT :—*Manitoba Supreme Court.*

I conclude that the recommendation to be conveyed to the Lieutenant-Governor is a sufficient security for the amendment of these Acts.

(Signed) D.

16th April, 1873.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 16*th April*, 1873.

The Committee of Council have had under consideration the Memorandum, hereunto annexed, from the Honorable the Minister of Justice, to whom was referred a certified copy of the Statutes passed by the Legislature of the Province of Manitoba, in the Session held in the 35th year of Her Majesty's reign, and they respectfully report their concurrence in the opinions expressed in the said Memorandum, and accordingly advise that the said Acts be left to their operation, and that a copy of the Memorandum be transmitted to the Lieutenant-Governor of Manitoba by the Hon. the Secretary of State for the Provinces.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

MANITOBA, 36TH VICTORIA, 1873.

3RD SESSION—1ST PARLIAMENT.

Lieutenant-Governor Morris to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, FORT GARRY, 15th March, 1873.

SIR,—I have the honor to inform you that I reserved for signification of the pleasure of His Excellency the Governor General the following Bills :—

1. "An Act respecting the Study and Practice of the Law."

A similar Bill was passed last year and reserved by my predecessor, who was of opinion that no obstacles, in a new country, should be placed in the way of any person of good standing in any of the other Provinces being admitted to the practice of the law. I regret to say that the Bill, which was understood to have been framed by certain Barristers here, was, as introduced in the House, of a character to show that the persons proposing to be incorporated, wished to secure a practical monopoly of the practice of the profession for a period of two years, as the Bill provided that no Barrister from the other Provinces could be received here, until after service for two years in the office of a Barrister in the Province, and this, although some of the persons to be incorporated, had been made Barristers by the Executive Council, having previously been Attorneys at other Bars. The Assembly very properly struck out these clauses. The Act as it stands nominates fifteen Benchers, several of whom are not in practice, and others are of only a couple of years standing at the Bar and even less, and makes the Benchers a close body, vacancies being supplied by election of the Benchers, while in Ontario the system in question has been abandoned. The law now in the Statute-Book provides for the admission of Barristers or Attorneys by the Lieutenant-Governor in Council.

With regard to this Act, it is simply a question whether the Province be sufficiently advanced, and whether there is a Bar here of sufficiently stable and settled a character, to justify the placing the control of admission to the Bar in the hands of the few practicioners who are resident here, and I therefore submit the Act for the consideration of the Governor General.

2. "An Act relating to the Prairie Fires."

I reserved this Act because there are two clauses in it which are of a novel character, and are, I believe, contrary to sound principles, and likely to prove injurious to the interests of the Dominion.

These clauses make Surveyors, Railway Companies and Contractors liable for the result of fires caused by any of their men, irrespective of the facts, whether there was negligence, or whether the men were at the time under the control of the employers, provisions which I would fear would seriously interfere with the survey of the Public Lands.

The Act itself is a useful one, but I must recommend that it be not assented to, in which event a similar Act, omitting the objectionable clauses, can be passed next Session.

3. "An Act to impose a Tax on Wild Lands."

I reserved this Bill, as I observed that a similar Act had been reserved in British Columbia. I think, however, that the Act is a proper one.

Large tracts of land in good sections of the Province have been purchased by speculators from abroad,

These lands will be unproductive, interfering with the progress of settlement, while the proprietors of them will share in the enhanced value of these lands, caused by the enterprise of the residents here, without contributing in any way to the advancement of the Province; and as the means at the disposal of the Legislature here are very limited, I think the Ministry were right in proposing the Act, and I therefore recommend that it be sanctioned without delay.

4. "An Act respecting Aliens."

This is an Act copied from the English Act of 1870, heretofore the titles to land in this Province have been long leases, but as henceforth titles to the soil will enamate from the Crown, and there are a few enterprising aliens resident in the Province, I think the Legislation necessary. I reserved the Bill, as at first I entertained some doubts as to the power of the Legislature to deal with the subject.

Under the British North America Act the legislation with aliens is entrusted to the Dominion Parliament, while property and civil rights are under the control of the Provincial Legislature.

I have come to the conclusion that as the Act deals only with the holding of property by aliens, and declares the existing disqualification from serving as jurors, a

question which has already arisen, and was decided by the then Chief Justice under the English laws in force here as now enacted, it is within the powers of the Legislature, and I therefore recommend that it be sanctioned forthwith.

5. "The Half-Breed Land Grant Protection Act."

The subject of these grants attracts a good deal of attention, and a movement was on foot to obtain legislation to prevent such of these lands as fell to the heads of families, from being sold by them, in order that the lands might descend to the children.

This project was abandoned, and the present Bill was introduced and passed.

It seems that speculators have bought largely from Half-breeds their claims to allotments at low prices, ranging as low in some cases as $15, the maximum being $50. These sales, of course, only give the vendees a right of action, to enforce the contract when the vendor should become entitled to his land. The object of the Bill is to cancel all these sales, and give the vendee an action to recover back the price, which, if in goods, was to be charged at ordinary prices.

The consideration is made a lien on the land, which may be sold for the recovery of the price paid.

The objections to the Bill, the intention of which is, no doubt, good, are these:

1st. It is retroactive—dealing with existing contracts and cancelling them.

2nd. It opens a fruitful door for litigation—the prices charged for goods being opened up for examination in each case, where those formed part of the consideration.

3rd. There is no machinery provided for carrying out the sale of the land on which the lien is established, but this, of course, could be remedied next Session.

I have no sympathy with those who may have purchased these claims to land at inconsiderable prices, or in an unfair manner, but as the law is novel and retroactive in its character, I feel compelled to reserve it for the signification of the pleasure of the Governor General; though it must be borne in mind also that, if the Act be sanctioned, it may be taken as a precedent for other restrictions with regard to the holding of these lands.

6. "An Act to incorporate the Eastern Railway Company of Manitoba."

This railway is within the bounds of the Province, and is designed to carry wood and stone, I understand. I reserved it as I found similar Bills had been disallowed last year, on the ground of possible interference with the line of the Pacific Railway. There is an objectionable clause in the Bill making the shareholders partners, though limiting the liability to the amount of their shares; as this clause is very obscure, it should be understood that it should be amended, if it be sanctioned.

If it is found that the Act does not interfere with the proposed Pacific Railway or its line, which I am led to believe it does not, I would recommend that it be sanctioned.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Hon. Secretary of State for the Provinces,

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, 29th November, 1873.

SIR,—Referring to my Despatch of the 15th of March last, enclosing certified copies of reserved Acts of the Third Session of the First Parliament of Manitoba, I have since procured printed copies of these Acts, and to facilitate the consideration of them, I enclose two printed copies of each of the said Acts.

In calling attention to my Report contained in my Despatch of the 15th March last, with regard to these Acts, I see no reason to modify the views therein expressed, unless it be to say, that with regard to the Act respecting the Study and Practice of the Law, I reserved it as a similar Act had been reserved in the previous Session, and the Royal assent refused thereto.

As the Act is within the power of the Legislature, I think the better course would be to allow the Act to take effect, suggesting the amendment thereof, if any of its features be found objectionable.

I have, &c.,

(Signed) ALEX. MORRIS,

Lieutenant-Governor.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 21st February, 1874.

The undersigned to whom is referred certified copies of certain Bills passed by the Legislative Council and Assembly of the Province of Manitoba in the Session held in the 36th year of Her Majesty's reign, but which were reserved by the Lieutenant-Governor for the signification of the pleasure of His Excellency, has the honor to report as follows:—

That the Bill intituled: "An Act to amend the Act 35th Victoria, Chapter 20, for the prevention of Prairie Fires, and for other purposes," provides, amongst other things, that Surveyors, Railway Companies and Contractors, shall be liable for the result of fires caused by any of their men, irrespective of the fact whether there was negligence, or whether the men were at the time under the control of the employers, provisions which appear likely to seriously interfere with the survey of Public Lands.

In this view the undersigned recommends that the Governor General's assent be not given to the Bill in question.

That the Bill Chaptered 42, and intituled: "An Act to impose a tax on Wild Lands" has also been reserved.

As to this the Lieutenant-Governor reports that the Act is a proper one, and he, therefore, recommends that it be sanctioned without delay.

The Act proposes an annual tax upon all Lands of the Province, except such as are hereby exempted, and these exemptions comprise lands vested in Her Majesty: Lands held for the benefit of any Indian; lands entered as Homesteads, and occupied under the "Dominion Land Act;" lands held by the Canadian Pacific Railway Company; and lands set apart for the Half-breed minors, &c.

Under these circumstances the undersigned recommends that the assent of His Excellency the Governor General be given to this Bill, and that the Proclamation do issue accordingly.

That the Bill Chaptered 43, and intituled: "An Act respecting Aliens" has also been reserved.

In respect to this Bill the Lieutenant-Governor of Manitoba in his Despatch of the 15th of March, 1873, remarks as follows:—

"This is an Act copied from the English Act of 1870. Heretofore the titles to Lands in this Province have been long leases, but as henceforth titles to the soil will emanate from the Crown and there are a few enterprising aliens resident in the Province, I think the Legislation necessary.

"I reserved the Bill, as at first I entertained some doubts as to the power of the Legislature to deal with the subject.

"Under the British North America Act the Legislation with regard to Aliens is entrusted to the Dominion Parliament, while Property and Civil Rights are under the control of the Provincial Legislatures.

"I have come to the conclusion that as the Act deals only with the holding of property by Aliens, and declares the existing disqualifications from serving as Jurors, a question which has already arisen, and was decided by the then Chief Justice under the English Laws in force here as now enacted, it is within the powers of the Legislature, and I therefore recommend that it be sanctioned forthwith."

The undersigned concurs in the view taken by the Lieutenant-Governor in this respect.

He thinks it right, however, to call attention to the use of the word "Parliamentary" in the first Sub-section, in the second Section of the Bill.

By the "British North America Act, 1867," Sec. 17, a Parliament is constituted for Canada, but a Legislature for each Province; the use, therefore, in this instance, of the word "Parliamentary" may lead to confusion.

A similar case occurred in the Province of Ontario in the enacting of the 31st Vic., Ontario, Chapter 30, Sec. 12, in which franchise was enacted for those entitled to vote at all "Parliamentary" elections, and to correct the difficulties it was, in the subsequent Session of the Legislature of that Province, 32 Vic., Chap. 27, Sec. 4, enacted that the "words "Parliamentary" elections" should be held and construed to mean and apply to the election of Members in the Legislative Assembly of Ontario only."

The undersigned recommends that the Lieutenant-Governor's attention be called to this point with a view to its amendment by the Legislature of Manitoba.

It is to be observed also that the same sub-section, provides that "No man, not being a natural born, or a naturalized subject of Her Majesty, shall be qualified to serve as a Grand or Petit Juror in any of the Courts in this Province on any occasion whatever."

The undersigned is of opinion that this clause, professing as it does to disqualify certain persons as Jurors for the trial of Criminal Cases in the Province of Manitoba, is not within the jurisdiction of that Legislature.

The Parliament of Canada has already by the "Criminal Procedure Act, 1869," 32nd and 33rd Vic., Chap. 29, Sec. 44, and by 34th Vic., Chap. 14, provided as to the qualification of Grand and Petit Jurors in Criminal cases.

The undersigned does not under the circumstances recommend Your Excellency to disallow this Bill, but would respectfully recommend that the attention of the Government of Manitoba be called also to this Provision with a view to amendment.

That another of the Bills reserved as before mentioned is one, Chaptered 44, and intituled: "The Half-Breed Land Grant Protection Act."

Upon this Bill the Lieutenant-Governor remarks as follows:

"It seems that speculators have bought largely from Half-breeds their claims to allotments at low prices, ranging as low, in some cases, as $15; the maximum being $50. These sales, of course, only give the vendor a right of action to enforce the contract, when the vendors should become entitled to his land. The object of the Bill is to cancel all these sales, and give the vendor an action to recover back the price which, if in goods, were to be charged at ordinary prices.

"The consideration is made a lien on the land, which may be sold for the recovery of the price paid.

"The only objections to the Bill, the intention of which is no doubt good, are "these, viz:—

"1st. It is retroactive, dealing with existing contracts and cancelling them.

"2nd. It opens a fruitful door for litigation, the prices charged for goods being opened up for examination in each case where those formed part of the consideration.

"3rd. There is no machinery provided for carrying out the sale of the land, on which the lien is established, but this, of course, could be remedied next Session.

"I have no sympathy with those who may have purchased these claims to lands at inconsiderable prices, or in an unfair manner, but as the Law is novel and

retroactive in its character, I feel compelled to reserve it for the signification of the pleasure of the Governor General, though it must be borne in mind also that if the Act be sanctionned it may be taken as a precedent for other restrictions with regard to the holding of these Lands."

The undersigned is however of opinion that having reference to the circumstances under which the appropriation of Dominion Lands was made for Half-breeds, and that it is recited in the Bill that very many persons entitled to participate in the Grant had agreed to sell their right, whilst, at the same time, they were in perfect ignorance what that right or its value eventually might be, that the Act would be beneficial in protecting their interests.

It appears further that in so far as purchasers of those rights are concerned, the Bill proposes to protect them, and if the machinery in this respect be not sufficient, it can be perfected at a future Session of the Legislature.

The undersigned has, therefore, the honor to recommend that the assent of His Excellency should be given to this Bill, and that a Proclamation to that effect should issue accordingly.

(Signed) A. A. DORION,
Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th February, 1874.

The undersigned has the honor to report that a Bill passed by the Legislative Council and Assembly of the Province of Manitoba, in the Session held in the 36th year of Her Majesty's reign, Chaptered 45, and intituled: "An Act to incorporate the Eastern Railway Company of Manitoba," was reserved by the Lieutenant-Governor for the signification of the pleasure of His Excellency.

The Act appears unobjectionable, and the undersigned has, therefore, the honor to recommend that the same should receive the assent of His Excellency the Governor General, and that a Proclamation do issue accordingly.

(Signed) A. A. DORION,
Minister of Justice.

Proclamation giving assent to Chapter 44.

GOVERNMENT HOUSE,

OTTAWA, Friday, 27th day of February, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, by the British North America Act, 1867, it is amongst other things in effect enacted that a Bill reserved for the signification of the pleasure of the Governor General, shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor General in Council;

And whereas, on the eighth day of March, 1873, the Lieutenant-Governor of the Province of Manitoba reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "The Half-Breed Land Grant Protection Act," for the signification of the Governor General's pleasure thereon;

And whereas, the Bill so reserved as aforesaid has been laid before the Governor-General in Council, and it is expedient that the said Bill should be assented to by the Governor-General in Council;

Now, therefore, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General, as aforesaid, doth by this present Order, by and with the advice of the Queen's Privy Council for Canada, assent to the said Bill.

And the Secretary of State of Canada is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving assent to Chapter 42.

GOVERNMENT HOUSE, OTTAWA, Friday, 27th February, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, by the British North America Act, 1867, and for purposes connected therewith, it is amongst other things in effect enacted, that a Bill reserved for the signification of the pleasure of the Governor General, shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant Governor signifies by speech or message to each of the Houses of the Legislature, or by Proclamation that it has received the assent of the Governor General in Council;

And whereas, on the eighth day of March, A.D. 1873, the Lieutenant-Governor of the Province of Manitoba reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "An Act to impose a tax on Wild Lands," for the signification of the Governor General's pleasure thereon;

And whereas the said Bill so reserved as aforesaid has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General in Council;

Now, therefore, His Excellency the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General, as aforesaid, doth by this present Order, by and with the advice of the Queen's Privy Council for Canada, assent to the said Bill.

And the Secretary of State of Canada is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving assent to Chapter 43.

GOVERNMENT HOUSE, OTTAWA, Friday, 27th February, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, by the British North America Act, 1867, it is amongst other things in effect enacted that a Bill reserved for the signification of the pleasure of the Gov

ernor General shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor General in Council;

And whereas, on the eighth day of March, 1873, the Lieutenant-Governor of the Province of Manitoba, reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "An Act respecting Aliens" for the signification of the Governor General's pleasure thereon;

And whereas, the said Bill so reserved as aforesaid has been laid before the Governor General in Council, and it is expedient that the said Bill be assented to by the Governor General in Council;

Now, therefore, His Excellency the Governor General in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present Order, by and with the advice of the Queen's Privy Council for Canada, assent to the said Bill.

And the Secretary of State of Canada is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving assent to Chapter 45.

GOVERNMENT HOUSE, OTTAWA, Friday, 27th February, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, by the British North America Act, 1867, it is amongst other things in effect enacted, that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force, unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor-General in Council;

And whereas, on the eighth day of March, 1873, the Lieutenant-Governor of the Province of Manitoba, reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "An Act to incorporate the Eastern Railway Company of Manitoba," for the signification of the Governor General's pleasure thereon;

And whereas, the said Bill so reserved, as aforesaid, has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to by the Governor General in Council;

Now, therefore, the Governor General, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present Order, by and with the advice of the Queen's Privy Council for Canada, assent to the said Bill.

And the Secretary of State of Canada is to give the necessary directions herein accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 21st August, 1874.

The undersigned has the honor to report, that the following Acts were passed in the Third Session of the First Legislature of the Province of Manitoba :—

Chap. 1. An Act for continuing the Legislature of Manitoba in case of the demise of the Crown.

Chap. 3. An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of the Legislative Council or Assembly.

Chap. 4. An Act to amend an Act, Chap. 3, Vic. 35, of the Legislature of Manitoba to establish a Court of Queen's Bench.

Chap. 5. An Act respecting the Judges, Oaths of Office and other matters.

Chap. 6. An Act to establish a County Court in the Province of Manitoba, and for other purposes.

Chap. 7. An Act respecting affidavits taken outside the Province to be used therein, and for other purposes.

Chap. 8. An Act dividing the County of Marquette for Court and Registration purposes.

Chap. 9. An Act respecting the Registration of Voters.

Chap. 10. An Act to amend the Act regulating Electoral Divisions.

Chap. 11. An Act to establish a Consolidated Revenue Fund for the Province of Manitoba.

Chap. 12. An Act respecting the Publication of an *Official Gazette.*

Chap. 13. An Act respecting registers of Marriages, Baptisms and Burials, and Vital Statistics, in the Province of Manitoba.

Chap. 14. An Act providing for the appointment of Public Notaries.

Chap. 15. An Act to permit Administrators to dispose of property in their care to better advantage.

Chap. 16. An Act to provide for the holding of Land on behalf of Congregations of Churches by Trustees.

Chap. 17. An Act to authorize Debtors to make legal tender in certain cases.

Chap. 19. An Act respecting Arrest and Imprisonment for Debt.

Chap. 20. An Act to amend 35 Vic., Cap. 15, of the Statutes of Manitoba, intituled : "An Act for the establishment of Agricultural and Arboricultural Societies in Manitoba."

Chap. 22. An Act to amend the Act to establish a system of Education in this Province.

Chap. 23. An Act to secure purchasers of Real Estate in certain cases.

Chap. 25. An Act to amend the Act respecting travelling on Highways.

Chap. 26. An Act to provide for the proper making of Ice-holes in the Red and Assiniboine Rivers.

Chap. 27. An Act to encourage the planting of Trees upon Highways and elsewhere in this Province, and to give a right of property in such Trees to the Owners of the soil adjacent to such Highways.

Chap. 28. An Act for the protection of Sheep.

Chap. 29. An Act to amend the Act 34 Vic., Chap. 20 and 25, and to regulate the sale of Intoxicating Liquors and the granting of Licenses in this Province.

Chap. 30. An Act to amend 34 Vic., Cap. 23, intituled : "An Act in reference to certain animals going at large at certain Seasons."

Chap. 31. An Act to establish Liens in favor of Mechanics, Machinists and others.

Chap. 33. An Act to incorporate the College of Manitoba.

Chap. 34. An Act to incorporate the Winnipeg Ladies' School.

Chap. 35. An Act to incorporate Les Révérends Pères Oblats in the Province of Manitoba.

Chap. 36. "An Act to incorporate the City Passenger and Goods Delivery Company.

Chap. 37. An Act to amend Cap. 42, Vic. 34, intituled: "An Act to incorporate the Manitoba Brick and Pottery Company."

Chap. 38. An Act to incorporate the Winnipeg Gas Company.

Chap. 39. An Act to incorporate the Woollen Manufacturing Company.

Chap. 40. An Act to amend an Act 35 Vic., Cap. 25, of the Statutes of Manitoba, intituled: "An Act to incorporate the Winnipeg Waterworks."

Chap. 41. An Act to provide for defraying certain expenses of the Civil Government of this Province."

The undersigned is of opinion that the above Statutes should be left to their operation.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th September*, 1874.

The Committee of Council have under consideration the annexed Report, dated 21st August, 1874, from the Hon. the Minister of Justice, reporting that the several Acts therein mentioned, passed in the Third Session of the First Legislature of the Province of Manitoba, should be left to their operation; and they respectfully advise that the said Report be approved, and the Acts therein mentioned be left to their operation, as recommended.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 21st August, 1874.

The undersigned has the honor to report that in the Third Session of the First Legislature of Manitoba, was passed an Act, Chaptered 2, and intituled: "An Act to define the privileges, immunities and powers of the Legislative Council and of the Legislative Assembly of Manitoba, and to give summary protection to persons employed in the publication of Sessional Papers."

The Act in question appears to be a transcript of the Act of the Province of Ontario of 1868, as to which the opinion of the Law Officers of the Crown in England was taken, and it was advised by them, that it was not competent for the Legislature to pass such an Act; and that it was inconsistent with the provisions of Sections 92 and 96 of the British North America Act of 1867.

The Act of Ontario was accordingly disallowed.

The Legislatures of Quebec and British Columbia fell into the same error.

The undersigned has, therefore, the honor to report that in his opinion the Act is objectionable; and he recommends that the same be disallowed.

T. FOURNIER,
Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Monday, 7th September, 1874.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the Legislative Council and Assembly of the said Province did, on the 8th day of March, 1873, pass an Act which has been transmitted, intituled as follows, viz.: "An Act to define the privileges, immunities and powers of the Legislative Council and Legislative Assembly of Manitoba, and to give summary protection to persons employed in the publication of Sessional Papers;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of the Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Manitoba, on the 8th day of March, 1873, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly of Manitoba, and to give summary protection to persons employed in the publication of Sessional Papers," was received by me on the 22nd day of November, 1873.

Given under my hand and seal this 7th day of September, 1874.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 21st August, 1874.

The undersigned has the honor to report, in reference to certain Acts passed by the Legislature of Manitoba in the year 1873, as follows :—

36 Victoria, Chapter 18.—"An Act to amend the Act concerning the Registration of deeds and to introduce a better system of Registration."

Section 53 provides that persons committing certain offences therein specified, shall be held guilty of misdemeanor. This being Criminal Law is not within the competence of the Legislature of the Province.

The undersigned, therefore, recommends that communication of this Report should be made to the Lieutenant-Governor of Manitoba, with the suggestion that the provision in question be repealed.

Chapter 21.—A Bill intituled: "An Act to make provision for enquiries concerning public matters."

Section 2 provides that any false statement on oath before Commissions shall be misdemeanor, punishable in the same manner as wilful and corrupt perjury.

The remarks made on the preceding Chapter are also applicable to this, and the undersigned has the honor therefore to recommend that communication be had with

the Lieutenant-Governor of Manitoba, with a recommendation that the section be repealed.

Chapter 24.—" An Act respecting Municipalities."

Section 16 provides that a person making a false declaration as to his right to vote shall be guilty of misdemeanor, and on a summary conviction thereof shall be sentenced to imprisonment or fine.

The same remarks apply to this as to Chapters 18 and 21, and the undersigned recommends that communication be had with the Lieutenant-Governor with a view to the repeal of the objectionable clause.

(Signed) T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th September*, 1874.

The Committee of the Privy Council have had under consideration the annexed Report, dated 21st August, 1874, from the Hon. the Minister of Justice, having reference to certain Acts passed by the Legislature of the Province of Manitoba, of the year 1873, 36th Vic., and they respectfully submit their concurrence in the said Report, and advise that communication be had with the Lieutenant Governor of Manitoba, with a view to the repeal of the sections of the said Acts, which are reported by the Minister to be objectionable.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 10th October, 1874.

SIR,—I have the honor to acknowledge the receipt of your Despatch of date the 12th ultimo, inclosing a Report of the Minister of Justice with reference to suggested amendments in certain clauses of the Acts 36 Vic., Chaps. 18, 21 and 24 of the Legislature of Manitoba, inasmuch as the same deal with Criminal offences, and have to inform you that I submitted the same to the Executive Council, who have advised me that they concur in the criticisms of the Minister of Justice, and will be prepared to submit a measure at the next Session of the Legislature to repeal the clauses in question.

I have, &c.,

(Signed) ALEX. MORRIS.
Lieutenant-Governor.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 1st September, 1874.

Upon an Act passed in the Third Session of the First Legislature of Manitoba intituled : " An Act to incorporate the Winnipeg Board of Trade."

The undersigned has the honor to report that in 1873 this Act was passed by the Legislature of the Province of Manitoba, Chaptered 32.

The undersigned is of opinion that the incorporation of Boards of Trade, not being for Provincial objects only, but treating of trade and commerce—a subject within the exclusive control of the Parliament of Canada only, rests with that Parliament.

In the Session of the Parliament of Canada lately held, provision was made by which persons, on application, can be incorporated as Boards of Trade.

The undersigned recommends, therefore, that this Act be disallowed.

T. FOURNIER,
Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 7th September, 1874.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of Manitoba with the Legislative Council and Legislative Assembly of the said Province did, on the 8th day of March, 1873, pass an Act which has been transmitted, intituled as follows, viz: "An Act to incorporate the Winnipeg Board of Trade;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Manitoba on the eighth day of March, 1873, intituled: "An Act to incorporate the Winnipeg Board of Trade," was received by me on the 22nd day of November, 1873.

Given under my hand and seal this 7th day of September, 1874.

DUFFERIN.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 10th October, 1874.

SIR,—I have the honor to acknowledge your Despatch of the 14th September last, informing me, for the benefit of the Government, of the disallowance of the Act

passed by the Legislature of Manitoba, on the 8th of March, 1873, defining the privileges and immunities of the Legislative Council and Legislative Assembly of Manitoba, and transmitting the Order in Council disallowing the same, on the ground that the Minister of Justice had reported "that he was of opinion that it was not competent for the Legislature to pass such an Act."

As the subject of the Act is one of importance, and materially effects the position of the Legislature, I have been requested by the Executive Council of Manitoba to apply to the Privy Council for information as to the reasons which led the Minister of Justice to report that the Act was beyond the powers of the Legislature, in order that another Bill within their powers may be submitted to the House at the approaching Session.

The Council feel that in this new community, with a Legislature composed, of necessity, of Members untrained to Parliamentary practice, every support ought to be accorded to them by the Privy Council in the difficult work of legislating for the varied wants of this rising society, and the same consideration ought to be extended to their enactments, as is shown to those passed by the more powerful Provinces of the Dominion.

I am requested by the Council to say, that they believed that the Act in question was within the powers of the Legislature, and that they had good reason so to believe, is apparent from the facts, that the Legislature of Ontario had passed an Act of a similar character, 32 Vic., Cap. 3, which was assented to on the 19th December, 1868; that the Legislature of Quebec passed an Act of the same nature, 32 Vic., Cap. 4, which was assented to on the 5th April, 1869, and that the Legislature of British Columbia passed an analogous Act, 45 Vic., Cap. 4, which was assented to on the 11th April, 1872.

With these precedents before them, the Legislature were justified in passing the Act in question, and I felt that it was right for me to assent thereto, as I examined the Legislation of the other Provinces before doing so, and I was, and am not aware that any of the above mentioned Acts were disallowed by His Excellency the Governor General in Council; and, if such be the case, it is natural that the Executive Council should desire to be furnished with the reasons which induced the Minister of Justice to report that the Act in question was not competent for the Legislature to pass, especially as its disallowance places the Legislature in an exceptional and less favorable position as compared with the other Legislatures of Ontario, British Columbia and Quebec, if the Acts above alluded to were to go into operation; and they therefore respectfully request that they may be supplied with full information on the subject, in order to guide the Legislature in dealing with so important a subject as to its privileges and immunities.

I would further call your attention to the fact, that the disallowed Act is, with the single exception of Clause One, which relates to the Legislative Council, a transcript of the Ontario Act, while that clause is to be found in the Quebec Act.

The Council desire me to express their regret that the Privy Council did not see fit to communicate with them before proceeding to the extreme step of disallowing the Act in question. A Session of the Legislature took place after the receipt of the Act in Ottawa, and if the objection of the Minister of Justice had been submitted to the Executive Council, it would have been in their power to have amended or repealed the Act.

I have, &c.,

(Signed) ALEX. MORRIS,

Lieutenant-Governor.

The Honorable the Secretary of State, Ottawa.

Mr. Under Secretary Langevin to the Lieutenant-Governor of Manitoba.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 16th November, 1874.

SIR,—I have the honor to inform you that His Excellency the Governor General has had under consideration your Despatch of the 10th ultimo, in reference to the disallowance by His Excellency in Council of an Act of the Legislature of Manitoba, defining the privileges and immunities of the Legislative Council and Assembly of that Province, and urging that as a similar Act had been passed by the Legislatures of Ontario and British Columbia, you would be glad to know the reasons which had led to the disallowance of the Act in question, passed by the Legislature of Manitoba.

I am directed to state that His Excellency is advised that the Act of Ontario, to which allusion is made in your Despatch, is the 32 Vic., Cap. 3, (1868) and that the then Minister of Justice reported that "by the 18th clause of the 'British North America Act, 1867,' it is enacted that the privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons of the Dominion of Canada shall be such as shall be from time to time defined by Act of the Parliament of Canada, but so that the same shall never exceed those held, enjoyed and exercised at the passing of such Act by the House of Commons of the United Kingdom.

"It is to be assumed that the power to pass an Act defining those privileges was conferred upon the Parliament of Canada on the ground that, without such a provision, the Parliament of Canada could not have passed any such Act.

"It is clear from the current of judicial decision in England that neither of the branches of a Colonial Legislature have any inherent right to the privileges of the Imperial Parliament.

"Perhaps, however, under the Legislative powers given to the Parliament of the Dominion by the 91st Section of the Union Act to make laws for the peace, order and good Government of Canada, it might have passed an Act without any enabling power from the paramount authority, establishing and defining the privileges of its two Chambers. However this may be with respect to the General Parliament, it is to be observed that there is no clause in the Union Act similar to the 18th, giving to the Provincial Legislatures power to define or establish their privileges, and that no *general* power of legislation for the good Government of the Provinces are given to their Legislatures. Their powers are strictly limited to those conferred by the 92nd, 93rd, 94th and 95th Clauses of the 'Union Act.'

"By the Act in question it will be seen that the Legislature of Ontario has declared that the Legislative Assembly and its Members shall enjoy the same privileges as those exercised by the House of Commons of Canada.

"It would seem, therefore, that this Act is in excess of the powers of the Provincial Legislature. If it has any power to legislate in the matter at all, it seems to follow that while the General Parliament can, under the 18th Clause, confer no greater privileges than those enjoyed by the Imperial House of Commons, the Provincial Legislature, being bound by no such limitation, might, if it were so disposed, confer upon itself and its Members, privileges in excess of those belonging to the House of Commons of England."

I am further to inform you that this statement upon which the Minister of Justice so reported was referred for the opinion of the Law Officers of the Crown in England, and that they gave their opinion that it was not competent for the Legislature of the Province of Ontario to pass the Act, and they considered it inconsistent with the provisions of Sections 92 and 96 of the British North America Act.

In consequence the Act in question was disallowed by the Governor General, as will be seen by reference to the *Canada Gazette* of the 4th December, 1869.

As to the Act of the Province of Quebec of the same tenor as that of Ontario, being 32 Vic., Cap. 4, 1869, action was taken and it was disallowed, as will be seen by the *Canada Gazette* of the 4th December, 1869.

Reference is also made in your Despatch to the Act of the Legislature of British Columbia of 35 Vic., Cap. 4, based on that of Ontario before mentioned.

This Act was repealed by the Act of British Columbia of 1873, 36 Vic., Cap. 35. They appear to have passed another Act on the same subject during the same Session, No. 42.

In making the above communication I am directed to add that the Government are anxious at all times to aid the Lieutenant-Governor and Council of Manitoba in respect to the legislation of that Province, in so far as they can possibly do so.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA 10th October, 1874.

SIR,—I have the honor to inform you that I am in receipt of your Despatch of the 7th ultimo, intimating that "An Act to incorporate the Winnipeg Board of Trade," passed on the 8th day of March, 1873, by the Legislature of Manitoba, had been disallowed on Report of the Minister of Justice "that is was not competent for the Legislature to pass such Act."

Having laid your Despatch before the Executive Council of Manitoba, I have been requested by the Council to apply to you for information as to the legal reasons upon which the Minister of Justice bases his opinion.

I am aware that the Parliament of the Dominion has incorporated a number of Boards of Trade, and, on recent receipt of the Statutes of last Session, I observe that a General Act has been passed by the Dominion for the incorporation of such bodies, but the Council think that there is serious question whether the incorporation of such bodies does not fall within the powers of the Local Legislatures, as being "companies with Provincial objects," under the British North America Act.

If, however, it is decided that all Acts of the Local Legislatures that may hereafter be passed to incorporate Boards of Trade shall be disallowed, and the exclusive right of the Dominion Parliament to incorporate such bodies is determined to be included under the powers conferred by the British North America Act on that Parliament, "for the regulation of trade and commerce," the Council have no desire to press the matter of this particular Act further; but they, nevertheless, wish to be in a position to satisfy the Legislature of the Province that there were good and sufficient reasons for the disallowance of the Act in question, especially as similar Acts have been passed by the Legislature of Ontario, and have been permitted, as they believe, to go into operation.

I refer to the Act of Ontario, 31 Vic., Chap. 64, incorporating the Guelph Board of Trade, which was then evidently regarded as being within the competence of that Legislature, as in the next Session two clauses of it were repealed, the one dealing with Criminal Law, and the other with the inspection of Articles of Commerce, by the repealing Act 32 Vic., Chap. 25, which dealt with that and other Acts, which in any way transcended the local powers, the said Act evidently having been passed, in conformity with a Report of the Minister of Justice, on the several Acts, comprehended within its scope.

I also refer to the Act of Ontario, 35 Vic., Chap. 73, which incorporated the Kingston Board of Trade, and I have no reason to believe was disallowed by the Governor in Council.

The subject of the jurisdiction with regard to this Act, to incorporate the Winnipeg Board of Trade, was discussed by the Executive Council at the time, and the

fact of the passage of the two Acts in question largely influenced them in assenting to the adoption of the Act, which has now been disallowed, as they contend that the Legislature of Manitoba possesses equal legislative power with that of Ontario.

The disallowance of this Act leads me to suggest that it may be worthy of consideration whether in the event of the disallowance of an Act of a Local Legislature, the fact of the disallowance together with its cause, should not, in addition to the notice in the *Canada Gazette*, be communicated to the other Local Governments.

The newer Provinces of the Dominion are naturally led to avail themselves of the advantage of the legislation and experience of the older Provinces, and if the Governments were advised of such disallowances, difficulty might be avoided, arising from the adoption by a Legislature, of an Act which had been passed by another Parliament, but which had been disallowed by the Governor General in Council.

Soliciting an early reply,

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Hon.
The Secretary of State.

Mr. Under Secretary Langevin to Lieutenant-Governor Morrris.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 16th November, 1874.

SIR,—I have the honor to inform you that His Excellency the Governor General has had before him your despatch of the 10th ultimo, in reference to the disallowance by His Excellency in Council, of an Act of the Legislature of the Province of Manitoba, incorporating the Winnipeg Board of Trade, and in which you ask for information for your Executive Council as to the legal reasons for the disallowance of that Act.

I am now directed to state that His Excellency is advised that, upon the passing by the Legislature of Ontario, in 1868, of the Act to incorporate the Board of Trade of Guelph, to which you make allusion, the then Minister of Justice reported "that it may be doubted," &c., (as in Report. See pages 40-41 ante.)

It would appear now that it has been generally conceded that, for the reasons before given, it is not within the competence of a Local Legislature to pass such a measure.

It will be observed by reference to the Statutes of the Parliament of Canada, that incorporation has been made of Boards of Trade in various Provinces, *e.g.*, that of St. John's, in the Province of Quebec, by 37 Vic., Chap. 52. A provision has been made generally for the incorporation of various Boards of Trade in the Dominion by the Act of 1874 (37 Vic., chap. 51), which was introduced into the House of Commons by the Hon. Mr. Blake.

I am to add, with reference to your suggestion, that in the event of the disallowance of an Act of the Local Legislature, the fact of the disallowance, together with the cause, should be communicated to the Local Governments, that His Excellency is advised that the suggestion may well be adopted in future.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

MANITOBA, 37-38TH VICTORIA, 1873-74.

4TH SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th January, 1875.

The undersigned to whom is referred copies of the Statutes of the Legislature of Manitoba, passed in the first part of the Fourth Session held in the year 1873, and in the 37th year of Her Majesty's reign, has the honor to report:

That the following Acts appear unobjectionable, and he recommends that they be left to their operation, that is to say:

Chap. 1. "An Act to amend the Acts relating to the Court of Queen's Bench."

Chap. 2. "An Act to provide for the enlargement of the boundaries of Manitoba on equitable terms."

Chap. 3. "An Act to amend an Act intituled: "An Act respecting Municipalities."

Chap. 4. "An Act to amend an Act respecting the office of Speaker of the Legistative Assembly."

Chap. 6. "An Act to amend 36th Vic., Chap. 6, of the Statutes of Manitoba."

With reference to Chapter 5, intituled: "An Act to provide for a fair and equitable redistribution of the Electoral Divisions of the Province," the Lieutenant-Governor remarks that a careful examination of the measure convinces him that the Act would require to be amended when the Legislature resumed its Session, as the measure was seriously defective owing to its framers not having fully understood that the Settlement Belt was not surveyed into Townships, but that in regard thereto the original parishes and private holdings have been respected, the Bill having been framed on the basis of the Township surveys.

The Lieutenant-Governor therefore recommended that the action of the Legislature at the resumption of the adjourned Session should be awaited before the Governor General arrived at any conclusion with regard to the Act in question.

It appears by the Acts passed in the subsequent portion of this Session, held in the 37th Victoria, that an Act with a similar title was assented to in April, 1874, by the Lieutenant-Governor, by which the Act immediately under consideration is virtually repealed and a new redistribution made.

The undersigned, therefore, recommends that the Act now under consideration be left to its operation, in so far as the same can have operated.

With reference to Chapter 7, intituled: "An Act to incorporate the City of Winnipeg," the undersigned has the honor to report as follows:—

Section 1 gives power to the Corporation "of giving or accepting any notes, bonds, obligations, judgments or other instruments or securities for the payment of any sum of money borrowed or loaned, or for the executing or guaranteeing the execution of any duty or thing whatsoever."

This provision seems in its terms so broad and unrestricted as to entrench upon the subject of Banking.

The usual provision inserted in the Acts of the Parliament of Canada upon a corporation similarly constituted is, that they may become parties to promissory notes for sums not less than $100; but provided that nothing in the Act contained

shall be construed to authorize the corporation to issue notes or bills of exchange payable to bearer or intended to be circulated as money, or as the notes or bills of a Bank.

The undersigned suggests, therefore, that this section should be modified and restricted.

Section 16 provides that "all constables and persons present at the election shall assist the Returning Officer or Justice of the Peace, on pain of being guilty of a misdemeanor."

The undersigned is of opinion that the constituting of an offence a misdemeanor is a branch of Criminal Law, and, therefore, not within the legal competence of the Legislature of Manitoba.

He recommends, therefore, that the clause should be modified by omitting the constituting of the offence as a misdemeanor, and providing some definite punishment therefor.

Section 90, Sub-section 10 provides for prohibiting the sale by retail of spirituous, &c., liquors, in any inn or other house of entertainment, and prohibiting the sale thereof in shops and places other than houses of public entertainment, provided by the By-Law, before the final passing thereof, has been duly approved by the electors of the City in the manner provided by the Act.

The undersigned entertains doubts whether it is within the Legislative competence of a Provincial Legislature to pass a law, which absolutely prohibits the sale of liquors, and whether it is not an interference with the Parliamentary power of Canada to legislate in respect to the regulation of trade and commerce.

Section 95 provides for the passing by the Council of Winnipeg of By-laws, appointing Inspectors, for visiting all places wherein weights and measures, steel-yards, or weighing machines of any description are used, and having seized and destroyed such as are not according to the standard, and for imposing and collecting penalties upon persons who are found in possession of unstamped or unjust weights, measures, steel-yards, or other weighing machines.

As by the British North America Act, 1867, the subject of Legislation is left exclusively to the Legislative authority of the Parliament of Canada, the undersigned doubts whether the Legislature of a Province can pass any enactments on this subject.

The undersigned recommends that these views be communicated to the Lieutenant-Governor for the consideration of his Ministers.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 11*th January*, 1875.

The Committee of Council have had under consideration the annexed Report, dated 5th January, 1875, from the Hon. the Minister of Justice, to whom were refered copies of the Statutes of the Legislature of Manitoba, passed in the first part of the fourth Session held in 1873, and in the 37th year of Her Majesty's reign, and respectfully advise as therein recommended, that Chapters 1, 2, 3, 4 and 6 of the said Statutes be left to their operation. That Chapter 5 be also left to its operation in so far as the same can have operated, in view of its virtual repeal by an Act passed in a subsequent portion of the same Session; and, further, that, as regards Chapter 7, inasmuch as he, the Minister of Justice, entertains doubts whether the Legislature

of a Province can pass the enactments it contains, a copy of the said Report, containing his views thereon, be communicated to the Lieutenant-Governor for the consideration of his Ministers.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Langevin to Lieutenant-Governor Morris.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 16th January, 1875.

SIR,—With reference to your Despatch of the 29th December, 1873, I have the honor to inform you that the Statutes of the Legislature of the Province of Manitoba therein enclosed, have received the consideration of His Excellency the Governor General in Council.

I am now directed to inform you that His Excellency has been pleased to direct that the Acts Chaptered 1, 2, 3, 4 and 6, be left to their operation, and that the Act Chaptered 5 be also left to its operation, in so far as the same can have operated in view of its virtual repeal by an Act passed in a subsequent portion of the same Session.

With regard to the Act Chapter 7, I am directed to transmit to you an extract from a Report of the Honorable the Minister of Justice, approved by His Excellency in Council, in which doubts are expressed as to whether the Legislature of a Province can pass the enactments it contains, and to request that you will have the goodness to bring the same under the notice of your Government.

I have, &c.,

(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 23rd March, 1875.

SIR,—I have the honor to inform you that I have submitted to the Executive Council of Manitoba your Despatch of the 16th of January last, with reference to certain Statutes of the Parliament of Manitoba, and have been requested to state in reply that the Council concur in the views expressed by the Minister of Justice, in his Report, with regard to the Act Chap. 7, to incorporate the City of Winnipeg, and will submit to the Legislature at the approaching Session, a Bill to amend the said Act, as suggested by the Minister of Justice.

I have, &c.,

(Signed) ALEXANDER MORRIS,
Lieutenant-Governor.

The Hon.
The Secretary of State, Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th January, 1875.

Upon the reference of the Statutes passed by the Legislature of the Province of Manitoba, at the second portion of its fourth Session, 1874, the undersigned has the honor to report:—

That the following Acts appear to be unobjectionable, and he recommends, therefore, that the same be left to their operations:

Chapter 8. "An Act to provide for a fair and equitable re-distribution of Electoral Divisions of the Province."

Chapter 9. "An Act to amend the Act for the Registration of Voters."

Chapter 10. "An Act to better define the boundaries of the several Counties of the Province for Judicial and Registration purposes, and to include in such Counties the whole of the Province."

Chapter 11. "An Act respecting the Treasury Department, and the Public Revenue Expenditure and Accounts."

Chapter 13. "An Act to amend the 36 Vic., Chapter 6, of the Statutes of Manitoba, intituled: 'An Act to establish a County Court in the Province of Manitoba, and for other purposes.'"

Chapter 16. "An Act to abolish Dual Representation."

Chapter 17. "An Act respecting Mortgages and sale of Personal Property."

Chapter 18. "An Act to amend the Act 34th Vic., Chapter 8, intituled: 'An Act relating to Deeds by married women.'"

Chapter 20. "An Act to incorporate the Manitoba Southern Railway Company."

Chapter 21. "An Act to incorporate the Dean and Chapter of St. John's Cathedral Church."

Chapter 22. "An Act to incorporate the Finance Committee of the Church Missionary Society in the Province of Manitoba."

Chapter 23. "An Act to incorporate the Catholic Parishes and Missions in the Province of Manitoba."

Chapter 24. "An Act for granting to Her Majesty certain sums of Money required for defraying certain expenses of the Civil Government of the Province of Manitoba for the fiscal half year ending on the 30th June, 1874, and the fiscal year ending 30th June, 1875, and for other purposes connected with the Public Service."

With reference to the other Statutes passed at that Session, the undersigned has the honor to report as follows:—

Chapter 12. "An Act respecting the Court of Queen's Bench in Manitoba."

The 2nd Section enacts that the "Court of Queen's Bench * * * shall possess and exercise all such powers and authorities as by the laws of England are incident to a Superior Court of Record, of civil and criminal jurisdiction, in all matters civil and criminal, whatsoever, and shall have, use, enjoy and exercise all the rights, incidents and privileges as fully, to all intents and purposes, as the same were on the day and the year aforesaid possessed, used, exercised and enjoyed by any of Her Majesty Superior Courts of Common Law, at Westminster, or by the Court of Chancery, at Lincoln's Inn, England."

The 3rd Section provides that the Court of Queen's Bench shall sit as a Court of Oyer and Terminer and General Gaol Delivery, and of Assize and Nisi Prius, for the trial of all criminal offences, &c., and shall possess and exercise all the powers possessed and exercised by the same Court of England.

The 7th Section enacts that the Court of Queen's Bench shall possess the same powers, authorities and jurisdiction as the Court of Chancery in England, possessed on the 15th day of July, 1870.

Upon these sections the undersigned deems it proper to remark, that it is impossible to enter fully into the powers and authorities established and exercised by Her Majesty's Superior Courts of Common Law, or by the Court of Chancery in England, or all the Courts of Oyer and Terminer and General Gaol Delivery.

Those powers and privileges have been exercised by these Courts in England from remote times, and have accrued to them partly by custom and usage, and partly by statutable authority.

Whilst under the British North America Act, 1867, the Legislature of a Province has the power to legislate in respect to the administration of Justice in the Province, including the constitution of Courts of criminal jurisdiction, yet it is reserved to the Parliament of Canada to legislate upon the criminal law, including the procedure in criminal matters, and it may be a grave question whether the assumption to the Court of Queen's Bench of Manitoba, of similar powers and privileges to those exercised by the Superior Courts in England, may not entrench upon the criminal procedure, as it is at present regulated by Acts of Parliament of Canada.

This point is suggested for the consideration of the Lieutenant-Governor of Manitoba.

Chapter 14. "An Act respecting the Registration of Co-Partnership."

Chapter 15. "An Act to require certain foreign Corporations, Associations, and Co-partnerships to enregister within this Province."

The first of these two Acts requires that all persons associated in partnership for trading, manufacturing or mining purposes in Manitoba shall register in the Court of Queen's Bench, a declaration of the particulars respecting the partnerships, and there shall be penalties imposed in forfeiture of compliance therewith.

The undersigned quite recognizes the right of legislation for Manitoba in respect of any Companies with Provincial objects which may be incorporated by the Legislature, but it is possible that Companies may be incorporated by the Parliament of Canada or under the "Joint Stock Companies' Act" of Canada, and the undersigned is of opinion that the application of the present Act to any such Companies would be in restriction of the rights granted to them by Canada.

He suggests, therefore, the consideration of this point by the Lieutenant-Governor, with a view to amendment.

In respect to Chapter 15, it is to be observed that it provides that no Company incorporated by any foreign power, nor any co-partnerships carrying on any description of trade or commerce, any of which such persons are resident in the United States of America, nor the agents of any such, shall do business in Canada until registration of the partnership is made, together with arrangements for effecting legal process upon the Agent, and a penalty is imposed for failure in compliance with the Act.

The remarks which are made above apply somewhat similarly to the case, although, practically, the object contemplated is desirable, yet the Act appears to be in restriction of trade and commerce. It is also entrenching on the Parliamentary powers of Canada.

An instance may be cited of the fact, in that by the Act of Canada, 31 Vic., Chapter 48, Insurance Companies incorporated by some of the United States of America, are licensed expressly to do business in any part of Canada after compliance with the provisions of that Act, and if this Chapter 15 remained as it is, it would be in direct conflict with the Act in question.

Under these circumstances, the undersigned recommends that the Lieutenant-Governor should consider the propriety of the same being repealed.

Chapter 19. "An Act to amend the Act of 1873, to regulate the sale and traffic of intoxicating liquors."

Section 1 provides that no person shall be granted a license to sell intoxicating liquors by retail, in Manitoba, outside the limits of the City of Winnipeg, &c., &c. It is presumed that it is intended that no person shall be granted, by the proper Provincial authority, a license, &c., so that the section shall not act in restriction of the Parliament of Canada in this respect.

The undersigned recommends that this Act be also called to the attention of the Lieutenant-Governor.

(Signed) H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

Copy *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 11th January*, 1875.

The Committee of Council have had under consideration the Report, hereto annexed, from the Hon. the Minister of Justice, having reference to certain of the Statutes passed by the Legislature of the Province of Manitoba, in the second portion of its fourth Session (1874); and they respectfully advise, as therein recommended, that Chapters 8, 9, 10, 11, 13, 16, 17, 18, 20, 21, 22, 23 and 24, be left to their operation, and that as regards Chapters 12, 14, 15 and 19, to the enactments of which some objections appear to exist, a copy of the said Report and of this Minute be transmitted to the Lieutenant-Governor of Manitoba.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Morris to the Secretary of State of Canada.

Government House, Fort Garry, Manitoba, 15th March, 1875.

Sir,—In reply to your Despatch of the 16th of January, respecting the Acts of the Legislature of Manitoba, passed during the fourth Session thereof, and Chaptered 12, 14, 15 and 19, I enclose, by request of the Executive Council, a copy of a Minute of Council adopted by them, for which they ask the consideration of the Privy Council. As regards Chapter 12, I have also been requested by the Council to enclose herewith a copy of a Report of the Chief Justice of Manitoba respecting Chapter 12, being the Act relating to the Court of Queen's Bench.

I may state that the Act referred to was prepared for the Council by the Chief Justice, at their request.

I am further to request a reply at your earliest convenience, as the Legislature will meet on the 31st instant.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Honorable
The Secretary of State.

Extracts *from Minutes of Council held at Government House, Fort Garry, on the 9th day of March, A. D.* 1875.

Council recommend the adoption of the following Minute relating to the Report of the Minister of Justice upon the Acts of Manitoba, 38 Vic., Chapters 12, 14 and 15, and request the Lieutenant-Governor to forward a copy of the same to the Hon. the Secretary of State for the consideration of His Excellency the Governor General in Council.

The Council having had under consideration a Despatch of the 16th January last to the Lieutenant-Governor from the Secretary of State for Canada, enclosing an extract from a Report of the Minister of Justice, with regard to Statutes 12, 14 and 15 of the Acts of the Fourth Session of the First Legislature of Manitoba, have agreed to the following minutes: 1st, with regard to the Act respecting the Court of Queen's Bench of Manitoba, the Council do not think that any difficulty such as the Minister of Justice suggests, can arise from the passage of the Act in question.

The Council are fully aware that the Legislature of Manitoba has no power to legislate with regard to Criminal Law or the procedure in criminal matters, and they contend that the Act in question does not in any way interfere therewith.

The Act was deemed necessary, inasmuch as the Statutes of Assiniboia provided that the proceedings of the General Court should be regulated by the Laws of England not only of the date of Her Present Majesty's accession, but also such laws of England of subsequent date, as may be applicable to the same.

Under the Manitoba Act and the British North America Act, all laws in force at the Union, and all Courts of Civil and Criminal Jurisdiction were continued in force. At the date of the Union there was a Court of Civil and Criminal Jurisdiction existing in Assiniboia. The quarterly Court and the common and statutory laws of England were in force, and these were continued.

In 1871 a Court was constituted for Manitoba by the Act of Manitoba, 34 Vic. Cap. 2, with jurisdiction in all matters of laws and equity, all matters of wills and intestacy, and possessing such powers and authorities in relation to matters of Local and Provincial Jurisdiction, as in England are distributed among the Superior Courts of Law and Equity, and of Probate, and until the appointment of a Judge of the Supreme Court, those powers were declared to be inherent in the General Court then in existence.

In 1872 the name of the Court was changed to that of the Court of Queen's Bench, by the Act 35 Vic., Cap. 3, and it was declared to possess an appellate Civil and Criminal Jurisdiction, and, also the Jurisdiction of a Court of Error.

The object of the Act, criticized in the Minister of Justice's Report, was to declare the period at which the laws of England should cease, under the local Statutes of Assiniboia, to be operative in Manitoba, as was done in the old Province of Upper Canada by the Act 2, George III, Cap. 1.

The Legislature having no powers to legislate with regard to criminal law, the Act can only be held to deal with matters within the powers of the Local Legislature, but it declares what was and is the fact, that the laws relative to property and civil rights existing in England on the 15th of July, 1870, so far as the same can be made applicable to property and civil rights, were in force here on that date, the object being to repeal the clause of the Assiniboia Statute, which adopted the Statute law of England, as from time to time enacted.

The English Common Law and the whole body of the Statute law of Great Britain and Ireland having been in force here on the 15th of July, 1870, and the Legislature being authorized to make laws for the Administration of Justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts, it seems clear that the Legislature has not exceeded its powers in declaring that the Court of Queen's Bench, possessed all the powers of a Superior Court of civil and criminal jurisdiction as these were possessed in England on the 15th July, 1870, but in the exercise of these powers the Court will be limited and controlled by the laws of England as they were on the 15th July, 1870, and by the laws of Canada relating to criminal matters or procedure with regard to criminal cases and other subjects within their jurisdiction, passed or to be passed since the Union.

The Council regard the Act in question as one of great importance, inasmuch as it prevents the English Statute Law from running into this Province after the date in question, and gives the Court the benefit of the decisions of the English Courts on the Statute Law up to that period, while it is clear that in its operation it cannot be held to deal with criminal jurisdiction or criminal matters, which are *ultra vires* as regards the Legislature of a Province.

The clauses of the Act above alluded to, and to which objection is taken, are, in effect, similar to, and are in almost the words of the Act passed in Upper Canada, in relation to the constitution of the Courts there, in a Province where, as here, the old Common Law prevailed, and under which these Courts still act. (*Vide* Consolidated Statutes of Upper Canada, Cap. 10, Sec. 31.)

The Council, therefore, trust that on re-consideration, the Minister of Justice will withdraw his objections to the Act in question, and that the Privy Council will leave the Act to its operation, and to its interpretation by the Court, in conformity with the laws in force in Manitoba.

2ndly.—With regard to the Act respecting the Registration of Co-partnerships, Chapter 14 deals with a subject which the Council are of opinion, is strictly within the province of the Legislature.

They are strengthened in this view by the fact that a similar Act was passed by the Legislature of Ontario, viz., the 33rd Vic., Cap. 20, which was amended by the 35 Vic., Cap. 28.

With regard to joint stock companies incorporated by the Dominion, the Council see no objection to excepting these from the operation of the Act, nor in fact to limiting the operation of the Act entirely to commercial partnerships.

As respects these, the Council can see no infringement of the power over trade and commerce enjoyed by the Dominion, in subjecting partnerships for trading, manufacturing or mining purposes in this Province to the necessity of giving information to the community, as to the persons composing such partnerships. They believe such a regulation to be within the scope of their powers, and they assert the same right to exercise these powers, it having been acknowledged to exist in the Legislature of Ontario.

3rdly.—With regard to the Act, Chapter 15, respecting Foreign Corporations, the Council attach a large measure of importance to this measure, and are not disposed to repeal it, though it may be beneficially amended in some respects. The necessity for the Act was beyond question, and the Council believe that in passing it the Legislature did not infringe on the powers of the Dominion Parliament.

Before the passage of this Act, to take one notable instance, there was no means of enforcing process against a Company of traders who had in their control exclusively the carrying trade by steamers and barges between the City of Winnipeg and Moorhead. The Council are of opinion that as the Legislature is empowered to legislate with regard to all matters of civil procedure, it has a right to subject foreign corporations or partnerships trading here to the necessity of affording to the community facilities for the effecting of the service of process on them, in order to which, in the case of unincorporated partnerships or associations, the disclosure of the names of the persons composing them is essential. The doing this is no hardship on such partnerships, while it is in the public interest.

The Council see no objection to exempting American Fire Insurance Companies, who have made the deposit required by the Dominion Statute cited, from that portion of the local Acts which required the disclosure of the names of the shareholders, but they are of opinion that they should remain subjected to the provisions of the Act affording facilities for service of process.

In this sense the Council would be disposed to ask the Legislature to amend the Act, but they have the strongest possible objections to its total repeal.

4th. With regard to the Act respecting the sale of intoxicating liquors, the Act merely substitutes a new Section for a similar Section in the License Act of 1873, which provides for the issue of licenses by the local authorities. Read with that Act there does not seem to be any ambiguity, but if there be it can be removed.

A true extract.

(Signed) SEDLEY BLANCHARD,
Clerk of the Executive Council.

Report of Hon. Chief Justice Wood.

WINNIPEG, 1st March, 1875.

DEAR SIR,—The question raised is, as to the Court of Queen's Bench as a Court of Criminal jurisdiction.

As a Criminal Court the Queen's Bench in Manitoba is by the Act criticized (38 Vic., Chap. 12), indeed it was by former Acts, invested and clothed with all the powers, rights, privileges and incidents appertaining to the Superior Courts of Law at Westminster, in England, on the 15th July, 1870, as respects its capacity, ability, authority and power to deal with crime and criminals, and the Criminal law of England, and the procedure in administering the same (as was in fact already done by Imperial and Canadian Acts, made applicable to Manitoba), are adopted, except as the same had already been changd, modified or superseded by any Act or Acts of the Parliament of Canada.

It is said "it may be a grave question whether the assumption by the Court of "Queen's Bench in Manitoba of similar powers and privileges to those exercised by "the Superior Courts in England may not entrench upon the Criminal Procedure "Act as is at present regulated, or may hereafter be regulated by the Acts of the "Parliament of Canada."

There can be no question "the Criminal law, except the constitution of Courts "of Criminal jurisdiction, but including the procedure in Criminal matters," is exclusively within the Legislative jurisdiction of the Parliament of Canada, and the meaning of the "Criminal Law" and "the procedure in Criminal matters," and "the constitution of Courts of Criminal jurisdiction," or "the administration of "Justice of the Province, including the constitution, maintenance and organization "of Provincial Courts both of Civil and Criminal jurisdiction, and including procedure "in civil matters in those Courts," are so plain, perspicuous, and so free from all ambiguity, and the limits of the Legislative jurisdiction of the Parliament of Canada and of the Legislatures of the Provinces, are so definitely and distinctly marked in terms, level to the plainest understanding, that it is with some difficulty and considerable effort one is enabled to apprehend any doubt as to the proper construction of the Constitutional Act, in regard to the distribution of the Legislative powers respectively conferred on Canada on the one hand, and the Provinces on the other, or the gravity of the question arising as to the constitutionality of the provisions referred to, in the Manitoba Act under consideration.

However it may appear to others, lawyers will readily comprehend what is meant by "powers and authorities" inherent in and inseparable from a Superior Court of Law, of record and of original jurisdiction, and inherent in and inseparable from a Court of Oyer and Terminer and General Gaol Delivery, and of Assize and Nisi Prius. These powers and authorities have certainly nothing to do with the definition or creation of crime, or with the criminal law, or with the procedure in criminal matters, but are referable exclusively to the administration of justice, including the constitution and maintenance "and organization of Courts both of Civil and of Criminal Jurisdiction."

It is submitted, with great deference and respect, that the expression "all the Courts of Oyer and Terminer and General Gaol Delivery in England" implies a confusion of ideas, or a misconception in respect of the Court of Oyer and Terminer and General Gaol Delivery in England. There is but one such Court known to the Law in England, and that Court, constituted by Royal Commission, and sitting from time to time, by virtue of Commissions issued to the Common Law Judges at Westminster, whereby they and those associated with them on the various circuits in England by jurors summoned according to law, at the several Assize terms, hear and try treasons, felonies, &c., and every prisoner committed for every offence whatsoever, and clear the gaols throughout the Kingdom, directly springs from, and forms in fact part of the Queen's Bench. It is a Criminal Court, whose powers, authorities, rights, privileges and incidents are as well known to the English lawyer as the name and nature of the commonest offence over which it has jurisdiction.

Not only are the provisions of the Act excepted to, manifestly within the Legislative jurisdiction of the Province, considered in the light of the British North America Act alone, but express independent authority is equally conclusive on the same point.

By its Charter, the Hudson Bay Company had power to establish a Court of original unlimited jurisdiction in matters both civil or criminal, and in or about the

year 1839 such a Court was constituted for the District of Assiniboia, called the "General Court." (Judgment of Wood, C. J., in Regina *vs.* Lepine.)

In 1864 by an Ordinance of the Council of Assiniboia "the powers and authorities and the practice and procedure of the General Court are regulated by the Laws of England, not only of the date of Her present Majesty's accession, so as they apply to the condition of the Colony, but also by all such laws of England of subsequent date as may be applicable to the same; in other words, the proceedings of the 'General Court' shall be regulated by the existing laws of England for the time being, in so far as the same are known to the Court, and applicable to the condition of the Colony."

It will be observed that the language used in the foregoing Ordinance, with respect to the powers and authorities conferred upon the "General Court," are quite as large, wide and comprehensive as those excepted to in the Manitoba Act, with respect to its Court of Queen's Bench.

By the last clause of Rupert's Land Act (31-32 Vic., Chap. 105, Sec. 5) it is provided that Rupert's Land might be transferred to Canada, and that after such transfer the Parliament of Canada might make, ordain and establish within the land all such institutions, and constitute such Courts and Officers, as might be necessary for the peace, order and good government of Her Majesty's subjects and others therein, "provided, that until otherwise enacted by the Parliament of Canada, 'all the powers, authorities and jurisdiction' of the several Courts now established in Rupert's Land, and the several officers thereof, and of all Magistrates and Justices acting within the said limits, shall continue in full force and effect therein."

On the 15th July, 1870, Rupert's Land, with the Indian Territories of the North-West, was transferred to Canada, and a part of Rupert's Land was erected into the Province of Manitoba—being that part in which the General Court had jurisdiction.

On the 14th April, 1871, the Parliament of Canada passed an Act extending to Manitoba certain Acts of its Parliament relating to the Criminal Law and procedure in criminal matters; and by the 2nd Section it is enacted and declared that the Court known as the "General Court," and any Court thereafter to be established by the Legislature of Manitoba, clothed with the powers and authorities of the General Court, should have power to hear, try and determine, &c.

On the 3rd of May, 1871, a few days after the passing of the last mentioned Act, an Act was passed by the Legislature of Manitoba (34 Vic., Chap. 2) establishing a Supreme Court in this Province. The 1st Section is as follows:—

"There shall be constituted a Court of Justice for the Province of Manitoba, to be styled the Supreme Court, which shall have jurisdiction over all matters of wills and intestacy, and shall possess such powers and authorities in relation to matters of Local or Provincial jurisdiction, as in England are distributed among the Superior Court of Law and Equity and of Probate."

On the 21st February, 1872 (Manitoba Act 35 Vic., Chap. 3), the name of the Supreme Court is changed to that of the Queen's Bench. There are two Acts following, regulating the times of the sitting of the Court, and then comes 38 Vic., Chap. 12, the Act whose provisions are impugned as *ultra vires*, which in fact does nothing more than express in appropriate and comprehensive language what, as has been already shown, in more than one instance, is found in the Ordinance of Assiniboia, in the Imperial Statutes, in the Acts of the Parliament of Canada and prior Statutes of the Legislature of Manitoba, which have never been questioned, no doubt for the obvious reason that constitutionally they were unquestionable.

It may not be inappropriate to observe what "powers and authorities" the Supreme Courts in the other Provinces of the Dominion possess.

The Revised Statutes of Nova Scotia, Part 3, Page 27, Section 1, reads as follows:—

"The Supreme Court shall have within this Province, the same powers as are exercised by the Courts of Queen's Bench, Common Pleas, Chancery and Exchequer in England."

In the Consolidated Statutes of Upper Canada, Cap. 10, Sec. 3, is found the following language:—

"The said Courts (Queen's Bench and Common Pleas) shall be Courts of record of original and co-ordinate jurisdiction, and shall respectively possess all such powers and authorities as by the law of England are incident to a Superior Court of civil and criminal jurisdiction, and shall have, use, and exercise all the rights, incidents and privileges as fully to all intents and purposes as the same are at the time this Act takes effect, used, exercised and enjoyed by any of Her Majesty's Superior Courts of Common Law at Westminster in England, and shall and may do all things appertaining to a Superior Court of record, in as full and ample a manner as on the time this Act takes effect, can or may be done in Her Majesty's Court of Queen's Bench, Common Bench, or in matters which regard the Queen's revenue (including the condemnation of contreband or smuggled goods) by the Court of Echequer in England."

In so far as it relates to the subjects under consideration, Section 5 reads as follows:—

"And the Chief Justice and Justices of the said Courts, respectively, shall use and exercise all the rights, incidents and privileges of a Judge of a Court of Record, and all other rights, incidents and privileges as fully to all intents and purposes as the same are at the time the Act takes effect, used, exercised, or enjoyed by any of the Judges of any of Her Majesty's Superior Courts of Common Law at Westminster."

Chapter eleven of the same Statutes explains what is meant by a Court of Oyer and Terminer and General Gaol Delivery, and of Assize *Nisi Prius*. It is in England incident to, springing from, and an emanation, and in fact is part of the Queen's own Court.

Chap. 12, Secs. 25 and 26 confer upon the Court of Chancery in Ontario substantially the same equity powers, and in almost precisely the same language as are in this respect conferred upon and employed in respect of the Court of Queen's Bench in Manitoba.

By reference to the Statutes establishing Supreme Courts of record of original jurisdiction in the other Provinces substantially the same powers and authorities are conferred upon the Courts by the same references, in the same language: but being the same in all this, it is thought it would be tiresome to make further reference or citations on the subjects, and I do not think it advisable to pursue the investigation in this direction any further.

Under these circumstances, one can ill-appreciate the "gravity of the question" suggested in the criticism on the Act 38 Vic., Chap. 12, intituled: "An Act respecting the Court of Queen's Bench in Manitoba," unless Manitoba is to be placed in an inferior position to that conferred upon it by the British North America Act, and to that occupied by the other Provinces of the Dominion.

I am, &c.

(Signed) E. B. WOOD,
Chief Justice.

His Excellency
The Lieutenant Governor,
Government House.

MANITOBA, 38TH VICTORIA, 1875.

1ST SESSION—2ND PARLIAMENT.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 4th November, 1875.

SIR,—I have the honor to enclose herewith, for the signification of the pleasure of His Excellency the Governor General, with regard thereto, a duly certified copy of a Bill, intituled: "An Act respecting Land Surveyors and the Survey of Lands in the Province of Manitoba," passed at the last Session of the Legislature, but which I reserved for submission to His Excellency the Governor General.

1st. The great bulk of the lands in the Province of Manitoba being yet Crown Lands belonging to the Dominion, the Act in question prohibits anyone from acting as a Surveyor of Lands in Manitoba, unless possessing the qualifications specified in the Bill.

2nd. The Bill deals with the whole question of the mode of surveying lands in the Province of Manitoba.

3rd. As the Dominion Lands Act, 35 Vic., Chap. 23, provides, who shall act as Surveyors of Dominion Lands, there would, if the Bill were assented to, be a conflict of authority created by it.

4th. The Dominion Lands Act provides for the mode of Survey of Dominion Lands.

5th. The Dominion Lands Act provides for a Board of Examiners for the Admission of Deputy Surveyors, and the local Act does likewise, so that there would be two Boards dealing with this matter in the Province.

6th. The provisions of the Bill are extremely illiberal and unjust with regard to Surveyors coming from the other Provinces, and would create a monopoly.

The first Section prohibits anyone from acting as a Surveyor of Lands in the Province of Manitoba, unless qualified, firstly, under the laws of Assiniboia, or secondly, qualified by certificate, diploma or commission to survey in some one of the Provinces of the Dominion of Canada, and having been employed as a Dominion Land Surveyor in the Province of Manitoba previous to the passing of this Act, or thirdly, become qualified under the provisions of this Act.

7th. The 11th Section provides that any person becoming qualified, after the passing of the Act, to survey lands in some one of the other Provinces, may be admitted as a Surveyor by the Board, after serving six months of actual practice in the field, with a Land Surveyor duly admitted and practicing in Manitoba, and thereafter undergoing examination prescribed by the Act.

8th. The effect of these two provisions is to shut out from surveying lands in Manitoba, all Surveyors, qualified before the passing of the Act, in any other of the Provinces, unless they had actually been employed in surveying lands in Manitoba, and to compel all such Surveyors, qualified after its passing, in any of the other Provinces to submit to a practical apprenticeship of six months here, and to a new examination, thus in effect throwing, should the Bill become law, the survey of lands in Manitoba, into the hands of a privileged few, and excluding men of experience from coming here to practice as Surveyors.

9th. While, for these substantial reasons, I reserved the Bill for the signification of the pleasure of His Excellency the Governor General, I would remark that the

question is not without difficulties; as the control of "property" is placed within the powers of the Local Legislatures, by the Confederation Act, an Act to provide for the survey of lands, would seem to fall within their competence; but yet the lands are, with the exception of the small quantity that has been patented Crown Lands of the Dominion, and therefore it is to be assumed, subject to their authority, as to the survey thereof as being "public property" with regard to which the Dominion possesses "the exclusive Legislative authority."

I am disposed to think that it would be competent for the Legislature to pass such an Act as the one proposed, if confined to the lands which have passed from the Crown to private owners in the Province, but, in view of the whole circumstances of the case, I would desire to be advised as to the opinion of the Privy Council with regard to this important question, in order that if the present Bill be disallowed, the Legislature may be guided in the framing of a new measure, should such be introduced next Session.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Hon.
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th January, 1876.

Upon the reserved Bill of the Legislature of Manitoba, intituled: "An Act respecting Land Surveyors and the Survey of Lands in Manitoba," forwarded by the Lieutenant-Governor in his Despatch of 4th November for the signification of the pleasure of His Excellency, the undersigned would refer to the approved Report of his predecessor, dated 24th September, 1872, upon a reserved Bill from the same Province, intituled: "An Act respecting Land Surveyors," and also to the Minute approving the Report. The undersigned would also refer to the Despatch of the 4th November, enclosing the Act now under consideration.

The undersigned has caused communication to be had with the Minister of the Interior, who expresses the opinion that the Bill is at present premature and unnecessary.

Under all the circumstances appearing in the Despatch and other papers hereinbefore referred to, the undersigned recommends that the Governor General's assent be not given to the Bill in question.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th February,* 1876.

The Committee have had under consideration the reserved Bill of [the Legislature of Manitoba, intituled: "An Act respecting Land Surveyors and the Survey of Lands in Manitoba," forwarded by the Lieutenant-Governor in his Despatch of the 4th November, for the signification of the pleasure of Your Excellency.

They have also had before them the Report of the Hon. the Minister of Justice, dated 29th January, 1876, upon the subject of said Act. The Minister refers to the approved Report of his predecessor, dated 24th September, 1872, upon a reserved Bill from the same Province, intituled: "An Act respecting Land Surveyors, and also to the Minute approving that Report. The Minister also refers to the despatch of

the 4th November, enclosing the Act now under consideration, and states that he has caused communication to be had with the Minister of the Interior of Canada, who expresses the opinion that the Bill is at present premature and unnecessary.

Under all the circumstances appearing in the Despatch and other papers hereinbefore referred to, the Minister recommends that the Governor General's assent be not given to the Bill in question.

The Committee concur in the foregoing recommendation, and accordingly advise that the said Bill be not assented to.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 15th February, 1876.

SIR,—I have the honor to enclose herewith a certified copy of an Act which was passed at the recent Session of the Legislature of Manitoba, providing for the registration of the mortgages to be given in favor of the Crown by the recipients of aid from the Dominion Relief Fund.

As several mortgages have already been granted I have requested Donald Codd, Esq., Dominion Lands Agent, to act in pursuance of the provisions of the Act without waiting for instructions from Ottawa, as it is in the public interests that these mortgages should at once create a lien on the properties included in them.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Honorable
The Secretary of State.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 19th July, 1875.

SIR,—I have the honor, in compliance with the request to that effect of the Minister of the Interior, to enclose a certified copy of an Act passed at the recent Session of the Legislature, to which I assented, and being intituled: "An Act to regulate proceedings against and by the Crown." In assenting to the Act in question, I believed that it only affected proceedings by and against the Crown, in so far as the same concerned the Crown in this Province, with regard only to Provincial matters, and I still believe that the Act can only have that effect.

Since assenting to it, however, the Chief Justice, in a judgment, as reported in the *Nor'-Wester*, of the 5th July (a Report which I believe to be authentic), in a case where he held that a person who had been recognized in a homestead, could not, under the special circumstances of the case, bring a suit for trespass, as the right of soil was in the Crown, used the following language: It was an easy thing for the Crown to put off the defendant. All it had to do was to permit the plaintiff to file an "information of intrusion" against the defendant; or the plaintiff, under the Act of the last Session of the Manitoba Legislature, may now, with the consent of the Crown, obtained from the Crown Lands Agent, bring an ordinary action of ejectment

in the name of the Queen, against the defendant, just the same as any ordinary action of ejectment may be included and conducted between individual subjects.

I do not concur in this view of the Act. The Dominion lands belong to the Crown, and the Crown acting by the Privy Council and Parliament of Canada alone, have control over them, and I do not think that the Provincial Act in Question could apply to such lands. Moreover, under the terms of the Act, the Crown Lands Agent has no authority to allow a suit to be brought under it, as that power is expressly vested in the Lieutenant-Governor.

Entertaining the view of the Act I do, I would not allow any matter affecting Dominion Lands to be litigated under it, but as the matter is one of importance, I submit it for the consideration of the Minister of Justice.

I believe that the scope of the Act is a proper one, but that it only affects the Crown in so far as under the distribution of powers, as defined by the Confederation Act, the Crown acts through the Provincial Executive, and that my assent to it should, therefore, be confirmed.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th May, 1876.

Upon an Act passed at the Session of the Legislature of Manitoba, held in the month of April, 1875, Chapter 12, intituled: "An Act to regulate proceedings against and by the Crown," the undersigned begs to report:

That it appears from the Despatch of the Lieutenant-Governor accompanying the Act, that since its passing the Chief Justice of Manitoba has judicially stated as follows:—

"It was an easy thing for the Crown to put off the defendant; all it had to do was to allow the plaintiff to file an 'information of intrusion' against the defendant; or the plaintiff, under the Act of the last Session of the Manitoba Legislature, may now, with the consent of the Crown, obtained from the Crown Lands Agent, bring an ordinary action of ejectment in the name of the Queen against the defendant, just the same as any ordinary action of ejectment may be included and conducted between individual subjects."

The Lieutenant-Governor gives strong reasons for the view he himself entertains, that the Act in no particular affects the Crown in Canada but only the Crown in Manitoba.

The Act is similar in many respects to that passed by the Legislature of Ontario in 1872, upon which, in January, 1873, the then Minister of Justice reported as follows:—

"With respect to this Act, the undersigned recommends that the attention of the Government of Ontario be called to the fact that it is so general in its terms that it might be held to apply to claims against the Government of the Dominion.

"It is presumed that this is not the intention, as the second clause of the Act provides that the fiat for a Petition of Right must be granted by the Lieutenant-Governor of the Province. Now, it is obvious that in case of claims against the Dominion, the fiat should be granted by the Governor General.

"The passing of a short Act removing the doubt is suggested."

The Minister of Justice in that case recommended that the Act should be left to its operation, but it does not appear that the Legislature took any action upon the suggestion made in his Report.

With reference to the Province of Manitoba the same doubt arises, and its existence is of infinitely greater consequence, since the lands of Manitoba are lands belonging to the Crown in Canada, and the greater bulk of them are still ungranted, and consequently, should the doubt be well founded, most serious consequences might ensue.

The observations of the highest legal authority of the Province add also in this case to the difficulty of leaving the Act to its operation.

It is to be observed that the Parliament of Canada in the Petition of Right Act passed during last Session, recited the intent of that Act to be to make provisions for the institution of suits "against the Crown in *Canada*" by Petition of Right, and thus took pains to avoid the suggestion or reference to that Act of the doubt referred to.

The undersigned inclines to the opinion that the view of the Lieutenant-Governor is correct, but having regard to the judicial opinion already referred to, and seeing that but little or no inconvenience is likely to result from the absence for a short time of legislative provision in the particulars dealt with by the Act, the undersigned is of opinion that the safer course is to exercise the power of disallowance. The Provincial Legislature will thus be free to pass a Statute which, being confined in so far as its purports to authorize proceedings against the Crown to matters affecting the Crown in Manitoba, will avoid the suggested difficulty.

With reference to that clause of the Statute upon which the judicial opinion already referred to proceeded, namely, the 7th, it appears to the undersigned that although from the reasoning of that opinion would flow the results suggested by the Lieutenant-Governor, yet other considerations arise as to the expediency of more extensive Legislation and the competency of the Provincial authorities to pass it, and the undersigned is of opinion that it would be advantageous in any fresh Legislation upon this subject, if the Provincial Legislature should think fit, without attempting to withdraw any of the existing rights as to procedure or otherwise of the Crown in Canada, *to authorize* the Crown in Canada to proceed in Manitoba as the subject may, though it would not be competent for the Provincial Legislature to provide for the payment of cost of such proceedings by the Crown in Canada, the statutory arrangements for which purpose would no doubt be made by the Parliament of Canada.

The undersigned on the whole recommends that the said Act be disallowed.

(Signed) EDWARD BLAKE,
Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 6th June, 1876.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Legislature of the Province of Manitoba, did, on the 14th day of May, 1875, pass an Act which has been transmitted, intituled as follows, viz. : "An Act to regulate proceedings against and by the Crown ; "

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice recommending for reasons therein given that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has, therefore, this day been pleased by and with the advice of His Privy Council to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the said Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern are to take notice and govern themselves accordingly.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of Manitoba, the 14th day of May, 1875, intituled: "An Act to regulate proceedings against and by the Crown." was received by me on the 27th day of July, 1876.

Given under my hand and seal this 6th day of June, 1876.

(Signed) DUFFERIN.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 9th August, 1875.

Sir,—I have the honor to enclose two advance copies of some of the more important Statutes of the last Session of the Legislature of Manitoba, passed by them and assented to by me. With regard to the first of these, Cap. 5, "An Act respecting the Administration of Justice," I have to call attention to the Clauses 58 to 61, which I think are *ultra vires* of the powers of a Local Legislature, and trench on the powers of the Dominion.

The Bill was prepared by the Chief Justice. I called the attention of the Ministry and of the Chief Justice to my objection at the time, but the clauses were retained.

As there was much of value in the Bill, I did not think it desirable to reserve it, but determined to call the attention of the Minister of Justice to the clauses in question, as, if he shares my view, they can be repealed next Session.

I have, &c.,

(Signed) ALEX. MORRIS,
Lieutenant-Governor.

The Honorable the Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd August, 1876.

The undersigned has the honor to report: That by Despatch, received by the Secretary of State on the 17th August, 1875, the Lieutenant-Governor of the Province of Manitoba transmitted copies of some of the more important Statutes of the then last Session of the Legislature of Manitoba.

Upon these, the undersigned has the honor to recommend that Your Excellency do not exercise the right of disallowance of the Statutes undermentioned, that is to say:

Chapter 7. An Act to provide for the payment by Stamps of all Fees payable to the Crown on civil proceedings of Law.

Chapter 8. An Act respecting the Office of Sheriff.

Chapter 10. An Act respecting Overholding Tenants.

Chapter 11. An Act to make Debts and Choses in action assignable at Law.

Chapter 13. An Act respecting Crown Attorneys.

Chapter 14. An Act respecting short forms of Indentures.

Chapter 15. To secure to Wives and Children the benefit of Assurance on the lives of their Husbands and Parents.

Chapter 16. An Act to provide for the erection of Court Houses and Registry Offices in the Province of Manitoba.

Chapter 17. An Act to provide for the erection of suitable Building for the accommodation of the Court of Queen's Bench in Manitoba, and for other purposes.

Chapter 19. An Act respecting public aid towards the Erection and Maintenance of Public Works by County Municipalities.

The undersigned has the honor further to report upon,

Chapter 5. An Act respecting the Administration of Justice.

With regard to this Act, Lieutenant-Governor Morris calls attention to the Clauses 58 to 61 which he thinks are *ultra vires* of the powers of a Local Legislature, and trench on the powers of the Dominion.

He states that the Bill was prepared by the Chief Justice, and that he (the Lieutenant-Governor) called the attention of the Ministry and the Chief to his objection at the time, but the clauses were retained.

As there was much of value in the Bill, he did not think it advisable to reserve it.

Sections 58 to 61, both inclusive, legislate as to the case of any person being in insolvent circumstances or unable to pay his debts, or on the eve of insolvency, giving a preference or priority under such circumstances, and of the fraudulent departing of property.

The undersigned is of opinion that these sections entrench on the subject of insolvency, and are, therefore, not within the Legislative competence of the Local Legislature.

Provision is made by the Parliament of Canada in the Insolvent Act of 1875, 38th Vic., Chap. 16, Secs. 130 to 143, both inclusive, which provides very fully for the class of cases with which the Act of Manitoba has incorrectly dealt.

As to Sec. 60 of the Act of Manitoba in question, which provides a punishment for the fraudulent destruction or mutilation, or false entry in books of account, with intent to defraud creditors; that savors of criminal law, and is dealt with by the Parliament of Canada in the Insolvent Act, 1875, Section 140.

The undersigned is of opinion that this section, both on account of its being on the subject of insolvency, and forming a portion of the criminal law, is not within the competence of a Local Legislature.

The undersigned concurs in the opinion of the Lieutenant-Governor, that there is much of value otherwise in the Act, and he is averse, therefore, to recommend that the Act should be disallowed.

He recommends, therefore, that the attention of the Lieutenant-Governor should be called to the objectionable features of the Act, in the hope that his Government will take the necessary steps during the ensuing Session to repeal the clauses referred to, that is to say, Nos. 58 and 61, both inclusive; and that in this view the right of disallowance of this Act be not exercised.

Chapter 6. An Act respecting Grand Jurors.

The undersigned has some doubt whether the subject of jurors is not a matter of criminal law and procedure, and, therefore, within the jurisdiction of the Parliament of Canada.

This Act of Manitoba, has a provision that no person competent to serve as a grand juror, shall be exempted from serving, by reason of his being a Justice of the Peace.

By the Act of Canada 32 and 33 Vic., Chap. 29 (Criminal Procedure), Sec. 44, it is provided that every person qualified as a grand or petty juror in criminal cases, according to the laws then in force in any Province, should be held to be duly qualified to serve as such juror in that Province, &c. If there be any irregularity in the Act of Manitoba, it is cured by the Act of Canada above alluded to.

The undersigned recommends, therefore, that Your Excellency do not exercise the right of disallowance of this last mentioned Act.

Chapter 9. An Act respecting the qualification of Justices of the Peace.

The undersigned has the honor to report: That by Sec. 16 of this Act, it is provided, that, "if the statement in any oath or in any declaration under oath, taken so made in pursuance of the requirements of this Act be false to the knowledge of the person making the same, such person shall be liable to a fine of $250, or six months' imprisonment in the common gaol in default of payment."

The undersigned is of opinion that this is in effect perjury, and a breach of criminal law, and is, therefore, not within the competence of a Local Legislature.

The case is, indeed, provided for by the Act of Canada, 1869, 32 and 33 Victoria, Chapter 23, Section 2.

The undersigned, therefore, recommends that the attention of the Lieutenant-Governor be called to this section, with a view to the repeal of the same, and that in this view the right of disallowance of this last mentioned Act be not exercised.

(Signed) R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by the Deputy of His Excellency the Governor General in Council on the 16th August*, 1876.

The Committee of Council have had under consideration the Report dated 3rd August, 1876, from the Honorable Mr. Scott, acting in the absence of the Minister of Justice, upon some of the more important Statutes of the Session of the Legislature of the Province of Manitoba, held in 1875, transmitted by the Lieutenant-Governor in his Despatch, received by the Secretary of State on the 17th August, 1875, and they submit their concurrence in the recommendations and opinions expressed in said Report, and advise that the same be approved and a copy of the Report transmitted to the Lieutenant-Governor of Manitoba.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th August, 1876.

Upon an Act passed by the Legislature of the Province of Manitoba, and assented to on the 14th May, 1875, being :

Chap. 18, intituled: An Act respecting Estreats, Fines, Penalties and Forfeitures, the undersigned has the honor to report:

That the 1st Section provides that " all fines, issues, amerciaments, penalties and forfeited recognizances, set, imposed, lost or forfeited, by or before any Court in the Province of Manitoba, of superior or inferior jurisdiction, or by or before any Magistrate, Mayor, Coroner or Justice of the Peace, or by the mere operation of any Law or Statute in force heretofore, now or hereafter in the said Province, shall be paid over to the Provincial Treasury of the said Province by the person collecting the same, and shall form part of the annual revenue of the said Province."

The 2nd and following clauses provide for the proceeding in case of the default of the recognizances, and how the same are to be estreated and put in judgment. It also provides in the 11th Clause that the Sheriff shall, without delay, pay over to the Provincial Treasury of Manitoba, all moneys by him made or collected under this Act.

The 12th Clause provides that with respect to any fine, issue, amerciament, penalty or forfeiture which is now or may hereafter become due and payable to the Crown within the Province of Manitoba by the mere operation of any Law or Statute in force in the said Province, heretofore, now or hereafter, it shall be sufficient for the Clerk of the Crown and Peace to take the necessary proceeding to estreat as therein provided.

The undersigned has grave doubts whether the subject on which this Statute treats, is not, as to the whole, a matter of criminal procedure, and, therefore, not within the competence of a Local Legislature.

Without dwelling, however, upon that point, he observes that a definite provision is made by the first clause, that all fines, penalties, &c., set, imposed, lost or forfeited in the Province of Manitoba, or by the mere operation of any Law or Statute in force heretofore, now or hereafter, shall be paid over to the Provincial Treasurer, and shall form part of the annual revenue of the Province.

By the 11th Clause the Sheriff is to pay over all moneys received by him in such respect to the Treasurer of Manitoba; and by the 12th Clause provision is made as to such fines, penalties or forfeitures, as may now or hereafter become due and payable to the Crown within Manitoba, by the mere operation of any Law or Statute in force in the said Province.

This provision deals, therefore, with many matters which come within the exclusive Legislative competence of the Parliament of Canada.

There are many fines, penalties or forfeitures in respect of which Parliament has legislated and made provision, both as to the mode of recovery and the appropriation thereof, such for instance as in the Inland Revenue and Customs Act.

In addition, also, as to pecuniary penalties and forfeitures, provision is further made as to their recovery and appropriation by the "Interpretation Act," 1867, 31st Vic., Chap. 1, Sec. 6, Sub-Sec. 22.

The undersigned is, therefore, of opinion that the Act in question deals with matters beyond the competence of a Local Legislature, and he recommends, therefore, that the Act passed by the Legislature of Manitoba in the 38th year of Her Majesty's reign, Chap. 18, intituled: "An Act respecting Estreats, Fines, Penalties, and Forfeitures," be disallowed.

(Signed) R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by the Deputy of His Excellency the Governor General in Council on the* 16th *August*, 1876.

The Committee have had under consideration the Report hereunto annexed, from the Hon. Mr. Scott, acting in the absence of the Hon. the Minister of Justice, having reference to an Act passed by the Legislature of the Province of Manitoba, and assented to on the 14th May, 1875, being:

Chapter 18, intituled: "An Act respecting Estreats, Fines, Penalties and Forfeitures;" and for the reasons therein given, they advise that the said Act be disallowed, and that a copy of the said Report be transmitted by the Secretary of State for the information of the Government of Manitoba.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Wednesday, 16th August, 1876.

Present:

THE HON. WILLIAM BUELL RICHARDS, DEPUTY OF THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the Legislative Council and Legislative Assembly of the said Province, did, on the 14th

day of May, 1875, pass an Act which has been transmitted, Chaptered 18, and intituled: "An Act respecting Estreats, Fines, Penalties and Forfeitures;" and, whereas, the said Act has been laid before the Deputy of the Governor General in Council: together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should be disallowed.

His Honor the Deputy of the Governor General has thereupon this day been pleased, by and with the advice of the Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Manitoba and all persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) W. A. HIMSWORTH,

Clerk Privy Council.

I, William Buell Richards, Deputy of the Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Manitoba on the 14th day of May, 1875, intituled: "An Act respecting Estreats, Fines, Penalties and Forfeitures," was received by His Excellency the Governor General on the 17th day of August, 1875.

Given under my hand at Ottawa this 16th day of August, 1876.

(Signed) W. B. RICHARDS,

Deputy Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th October, 1876.

With reference to the Statutes of Manitoba, passed in the first Session of the Second Parliament, 38 Victoria, 1875, the undersigned begs to report as follows:—

Chapters 1, 3, 4, 23, 24, 25, 28, 29, 32, 34, 36, 38, 39, 40, 42, 43, 44, 45, 47, 48, 49, 51 and 52, do not appear to call for observation or for the exercise of the power of disallowance.

Chapter 2. "An Act respecting the election of Members of the Legislative Assembly of the Province of Manitoba." The heading of the first part is "Parliamentary Electors." The same phrase occurs before the 12th Section, and in the latter part of the 13th Section, which provides that the list thereby established shall be the list of Parliamentary Electors for the electoral division. With reference to this phrase the undersigned refers to the Report of the Minister of Justice, of 1st July, 1868, upon Chapter 30 of 31st Victoria of the Statutes of Ontario, in which Report there is contained, with reference to the same phrase, the following observations:—

"The 41st Section of the Union Act provides that all the laws of the several Provinces relating to Parliamentary Elections, in force at the time of the Union, shall remain in force until the Parliament of Canada otherwise provides.

"If the clause in question is intended merely to apply to elections for the Legislative Assembly of Ontario, it is inaccurate in expression."

"To avoid confusion, the Union confines the name of Parliament to the General Legislature, the Provincial Legislative bodies are styled uniformly as Legislatures."

"The undersigned recommends that the attention of the Government of Ontario be called to this Section, and suggests that the same should be amended so as to limit it expressly to elections for the Legislature of Ontario."

The undersigned recommends that the attention of the Lieutenant-Governor of Manitoba should be called to the use of this phrase, with a suggestion that it should be amended so as to limit it expressly to electors for the Legislative Assembly of Manitoba.

Section 32. It may be questionable whether some falsifications of the electors lists may not be crimes within the meaning of the law of Canada, in which event it would seem *ultra vires* of the Local Legislature to deal with them.

In Sections 33 and 34, and in other parts of the Act is used the phrase "Parliamentary Electors" already referred to.

Section 166 amongst other things embraces a penalty for the offence of forgery, and is so far *ultra vires*.

Sub-section 3 imposes a penalty for the offence of destroying, taking, opening or manipulating, without authority, any ballot box or parcel of papers used or to be used at an election, or attempting to commit such offence. These may be criminal acts within the meaning of the Criminal Law of Canada, the Act relating to malicious injury to property, 32 and 33 Victoria, Chap. 22, Sec. 59.

Sections 185 and 205 may also to some extent trench upon the Criminal Law.

Section 206 provides punishment for the offence of inducing any one to take a false oath, This is clearly subornation of perjury, a criminal offence under the law of Canada, and provided for by 32 and 33 Vic., Chapter 23, and the Legislation seems *ultra vires*.

Section 235. Some of the provisions in this section seem also to trench upon the Criminal Law.

Section 237 provides that every punishment, by way of fine or imprisonment, imposed by the Act shall be, in addition to any punishment that may be inflicted by the Parliament of Canada, for the same offence. This section, in terms, acknowledges that some, at any rate, of the acts which are to be punished under the law, are crimes within the Criminal Law, and that the Legislation is, therefore, *ultra vires*.

The undersigned observes that prior Legislation of the other Provinces has, although objectionable in some of the particulars to which he has called attention, been suffered to pass without observation, and, upon the whole, he does not recommend the disallowance of this Act. There is, however, a growing tendency towards the invasion of the Criminal Law by Local Legislatures which is obviously objectionable, and he suggests that the attention of the Lieutenant-Governor should be called to the Act now under consideration, with a request that he would move his Government to recommend to the Legislature a measure repealing such sections as trench upon the Criminal Law.

Chapter 20. "An Act respecting the storage of Gunpowder in and near the incorporated Towns and Cities in the Province." This Act involves some questions which have been raised with reference to other Acts left to their operation, and the undersigned recommends that the same course should be pursued with reference to this Act.

Chapter 21. "An Act respecting Building Societies." The second section of this Act provides that: "Every such society may receive from any member any sum of money by way of bonus on any share for the privilege of receiving the same in advance, prior to its being realized, besides interest for the share so received or any part thereof without being held thereby to contravene any law relating to usury."

Section 11 authorizes loans or advances to members or others, and the receipt of bonuses, besides interest, without being subject, on account thereof, to any forfeiture or penalty, and is open to the same objection.

Section 16. This section provides that if any person having in his possession, by virtue of any office to which he is appointed by a Society, any of its moneys or effects, becomes bankrupt or insolvent, his assigns or other persons having the legal right, shall, within fifteen days after demand, deliver over all things belonging to the Society, and pay out of the estate's assets or effects of the person, all sums of money remaining due, which such person received by virtue of his office before any of his other debts are paid or satified, and that all his assets, estates and effects shall be bound to the payment and discharge thereof accordingly, except that the same shall not be paid or satisfied to the prejudice of mortgages or privileges on real estate, or of heirs or privileges on personal estate only, duly executed previous to the appointment

of such officer. This section appears to affect the law of insolvency, and is on this ground objectionable.

Section 17 provides that all property, &c., of the Society shall, for all purposes of action or suit, civil or criminal, be taken to be the property of the Society, and that the Society may, by its name, bring criminal prosecution. This action appears objectionable, as trenching upon Criminal Law.

Section 18 makes the Secretary of the Society a competent witness in all actions, suits and prosecutions to which the Society is a party, and is objectionable on the same ground as the former section.

The undersigned recommends that the attention of the Lieutenant-Governor of Manitoba should be called to these observations, with a view to the repeal of the objectionable clauses.

Chapter 22, Section 26, appears wide enough to empower the Lieutenant-Governor to authorize the removal from the Province of a criminal confined in gaol for crime, or sent after conviction to an asylum for the insane, and so is objectionable, as trenching on the Criminal Law. The undersigned recommends that the attention of the Lieutenant-Governor should be directed to this clause, with a view to its amendment.

Chapter 27. "An Act to further amend the Act to establish a system of Education in this Province."

Section 11 provides, that if a school trustee or other person knowingly signs a false report, or if a teacher keeps a false school register, or makes a return, with a view of obtaining more than a just proportion of school moneys, he shall forfeit $20, and be liable to imprisonment in the common gaol. This seems rather to trench upon the Criminal Law, as being an attempt to commit the crime of obtaining money under false pretences, and would, of course, apply to a case in which that crime had been actually committed. Similar provision has, however, been permitted to pass without objection in the case of another Province, and the undersigned, under the circumstanees, recommends that the attention of the Lieutenant-Governor should be called to the section, with a view to its amendment.

Chapter 30. "An Act to amend the Act of 1873, to regulate the sale and traffic of Intoxicating Liquors."

Some of the provisions of this Statute may be open to the objections which have been taken in the case of an Act upon the same subject, passed by the Legislature of Ontario. These objections are still *sub judice*, and the Act referred to having been left to its operation, the undersigned recommends that a similar course be taken in this case.

Chapter 31. "An Act respecting Municipalities." Section 20 exempts certain classes of real estate from municipal taxation. Amongst them is (Sub-section 1) "real estate vested in or held in trust for Her Majesty, or for the public uses of the Province;" and (Sub-section 5), "the following property of the Canadian Pacific Railway Company, the buildings, except the lands granted or to be granted by any Government in aid of the said Railway." It is presumed that this clause is not intended to apply to lands for the purpose of the grant in aid of the construction of the work, and not yet granted. It would be objectionable to permit the taxation of the lands between the period of their appropriation and their grant to the Company.

Section 39. Sub-section 12, appears to admit the transfer upon a tax sale to the purchaser, of the rights of the holder or other persons in lands sold for taxes before the issuing of Letters Patent from the Crown granting the same. This would not be objectionable in cases in which the rights of the holder or other person are recognized by the Crown to be transferable; but if it is intended to extend to cases in which no right to transfer is recognized by the Crown, it might be objectionable. It is not presumed that such can be the intention, and, upon enquiry from the Minister of the Interior, it appears that the only possible evil which can arise is in cases of homestead entries, and as to these the law regulating them provides that all assignments and transfers are null and void, and are to be deemed evidence of the abandonment of the right. It appears to the undersigned that the Crown can,

notwithstanding the Local Act, resume possession of any land of which possession may be taken by a purchaser under color of this clause, and he recommends that it should be left to its operation.

Chapter 35. "An Act to amend the Registry Act." This Act recites that the 43rd Section of the Act. 36th Vic., Chap. 18, does not express the true meaning of the Legislature in that behalf, and that it is expedient to amend it. The 43rd Section in question provides that "after any grant from the Crown of lands in Manitoba, and Letters Patent issued therefor, every instrument affecting the lands, or any part thereof, comprised in such grant, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such instrument is registered in the manner herein directed, before the registering of the instrument under which such subsequent purchaser or mortgagee may claim." The amending clause provides that any instrument mentioned in the 17th Clause of the original Act, registered in pursuance of the Act affecting any lands, whether there has been any grant from the Crown of such lands or not, shall be adjudged fraudulent and void against any subsequent purchaser, unless registered as in the Act provided. This appears to be a direct interference with the devolution of title of lands before Patents are issued. When the lands are the property of the Crown in the Province, the legislation would be within the competence of the Local Legislature, and might be beneficial; but the position of Manitoba is, in this respect, exceptional. The lands, until Patents are issued, are the property of Canada, and the provisions as to assignments, &c., of unpatented lands, ought to be made by the Canadian Parliament. The undersigned has called the attention of the Minister of the Interior to the question of the practical operation of the Act, and the Minister is of opinion that, in the case of persons owing and transferring rights in unpatented lands, a provision, such as that in the local Act, would be required for the protection of the purchaser; and he points out that a person so purchasing, after registering his assignment, would, he presumes, send the same forward to his Department, in order that the Patent, if in time, might be issued in his name.

The Act contains many other provisions, and its disallowance would probably be productive of confusion. Since its objects are such as the Ministers would be prepared to recommend to the Canadian Parliament, the undersigned recommends that it should be left to its operation, the attention of the Lieutenant-Governor being called to the difficulty, with the suggestion that the clause should be repealed, and an intimation that Parliament would be invited to legislate on the subject.

Chapter 41. "An Act respecting County Municipalities." Some of the provisions of Section 11 may be open to question as being *ultra vires*; but similar legislation having already taken place in another Province, the undersigned does not recommend any interference.

Section 24. Sub-section 1 requires persons challenged at the poll to make a declaration. Sub-section 3 provides punishment for a false declaration so made. This seems to come within the Criminal Law, whereby declarations required by Statute, if false, are punishable as forgery. The undersigned recommends that this section be called to the attention of the Lieutenant-Governor, with a view to its amendment.

Section 172, Sub-section 12. This sub-section is subject to the same objections which have been already made with reference to Chapter 31, Section 39, Sub-section 12.

Chapter 46. "An Act to Incorporate the Manitoba Western Railway Company." It is to be observed that the Local Legislature has no power to authorize the Company to enter, without the assent of the Crown, upon lands vested in the Crown. The Act does not, however, expressly purport to give such authority, and it seems unnecessary to do more than make this observation.

Chapter 50. "An Act relative to the City of Winnipeg." To Section 13 of this Act several observations made upon Chapter 2 are applicable.

(Signed) EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by the Deputy of His Excellency the Governor General in Council on the 7th October,* 1876.

The Committee in Council have had under consideration the Report, dated 6th October, 1876, from the Honorable the Minister of Justice, having reference to the Statutes of the Legislature of Manitoba, passed in the Session thereof held in the year 1875, 38th Victoria, and they concur in the several recommendations and suggestions therein contained, and submit the same for approval.

Certified.

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

DEPARTMENT OF JUSTICE, OTTAWA, 7th October, 1876.

Statutes of Manitoba passed in the year 1875, 38th Victoria:—

Chapter 33. "An Act to afford facilities for the construction of a Bridge over the Assiniboine River, between the City of Winnipeg and St. Boniface West."

This Act provides for the granting of a license for the construction of the proposed bridge, the license to extend over a period not exceeding twenty years.

The third section provides that the Lieutenant-Governor may require the bridge to be constructed with a draw therein, so as to permit the passage of steam and other vessels in the River Assiniboine.

The Act thus admits that the river is navigable, and that, under its provisions, navigation may be obstructed.

In response to an application by the undersigned, the Minister of Public Works reports that the project has been so far entertained for making the Assiniboine a channel for reaching Manitoba Lake and the Saskatchewan River, as to send an engineer to examine the country between the said lake and the Assiniboine; that the project is quite feasible, and could be accomplished at very little cost; and that, if accomplished, continuous navigation would be had by that route to all points on Red River and Lake Winnipeg. The Minister is disposed to advise that under these circumstances the Act should be disallowed, and that any authority which may be required for bridging the Assiniboine at any point east of Portage la Prairie should be obtained from the Dominion Legislature.

Upon communication with the Lieutenant-Governor of Manitoba, it has been ascertained that no action has been taken by the Government of that Province upon the authority conferred by the Act.

The undersigned recommends that the Act in question be disallowed.

Chapter 37. "An Act to amend Cap. 46, Vic. 37, intituled: 'The Half-breed Land Grant Protection Act.'"

The Act by this Statute amended was reserved, and the assent was given by His Excellency in Council, in pursuance of a Report of the then Minister of Justice, pointing out that its operation was, on the whole, beneficial to the Half-breeds. The present Act modifies the provisions of the former one in some material particulars; but not to the advantage of the Half-breeds.

It provides that when a Half-breed having sold his interest, and received therefor a consideration, shall return or tender to the purchaser the full consideration and the purchaser's expenses with interest at 12 per cent. per annum, within three calendar months from the passing of the Act, the agreement shall not be binding; otherwise the bargain, if in writing, shall be valid, and the Half-breed shall assign the granted lands within three months after the receipt of the Patent from the Crown. It repeals the second section of the former Act. It provides that notice of the passing of the Act shall be given in the Manitoba *Gazette* for three months after its being assented to by the Crown.

The undersigned referred to the Minister of the Interior for his view of this Act, and his Report is as follows:—

"The undersigned having failed to find in Ottawa any evidence of compliance with the 3rd Section of the Act, referred for information on this point to the Hon. Mr. Royal, Attorney-General of Manitoba, now here, who states that no notice of the passage of the Act in question was given, and that the same has not been considered as in force in the Province.

"This notice was evidently intended for the information of the Half-breeds who may have sold their claims in order that they might redeem them if so inclined, in manner as pointed out in section 1 of the Act; but it was not given, Mr. Royal says, in consequence of a doubt on the part of himself and his colleagues, whether the Act would be allowed by the Governor General.

"Under the circumstances the undersigned recommends that the Act be disallowed, especially as in his opinion the original Act 37 Vic., Chap. 46, alluded to, afforded all necessary protection to the purchase of Half-breed land rights."

Under the circumstances stated in this Report, the undersigned concurs in the recommendation of the Minister of the Interior, that the Act should be disallowed.

Chapter 26. "An Act to amend the Act intituled: 'An Act for the protection of the Wood Lands of the Province.'"

This Act makes it an offence punishable by a penalty not exceeding $200, and in default of payment imprisonment not exceeding two months, to burn or set fire to any trees or timber on any lands in the Province. The provisions being much more rigorous than those which had been enacted in the Province of Quebec, or previously in the Province of Manitoba, the undersigned caused inquiries to be made of the Minister of Public Works and of the Minister of the Interior as to their view of the operation of the Statute with reference to the Dominion Public Works in the Province and to the settlement of Dominion lands in the Province.

The Minister of Public Works reports, that most of the Pacific Railway proper, within the boundary of Manitoba, is on prairie land; that the woodland portion is already cleared and burned; and that it does not therefore seem necessary to object to the Act on account of any inconvenience which might result to contractors or others on the railway line; and that the measure cannot interfere with any other works now in progress or likely to be undertaken.

The Minister of the Interior reports that if enforced by the Province, the law would prevent entirely the clearing up and bringing into cultivation any land covered with timber, under circumstances where it would not pay to take such timber to market, that there are, perhaps, few, if any, parts of the Province where heavy timber might not be sold more or less to advantage, but the effect of the local Act proposed would be to prevent, under any circumstances, the burning on the land of refuse timber or even perhaps of brush.

No legal question is involved, and the undersigned submits these opinions for the consideration of Council as to the course to be taken with reference to this Act.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th October*, 1876.

The Committee of Council have had under consideration the Report, hereunto annexed, from the Hon. the Minister of Justice, having reference to three Acts, therein mentioned, passed by the Legislature of the Province of Manitoba, in the year 1875, 38th Victoria, and they respectfully advise that the Acts, Caps. 33 and 37, therein referred to, be disallowed, and that the third Act, Cap. 26, be left to its operation.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation disallowing Chapter 33.

GOVERNMENT HOUSE, OTTAWA, Saturday, 7th day of October, 1876.

Present :

HIS HONOR THE DEPUTY OF THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the Legislative Council and Assembly of the said Province, did, on the 14th day of May, 1875, pass an Act, which has been transmitted, intituled, as follows, viz.: "An Act to afford facilities for the construction of a Bridge over the Assiniboine River, between the City of Winnipeg and St. Boniface West;"

And, whereas, the said Act has been laid before the Deputy of the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that the said Act should not be left to its operation;

His Honor the Deputy of the Governor General has, thereupon, this day, been pleased, by and with the advice of the Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,

Clerk Privy Council.

I, William Buell Richards, Deputy of the Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of Manitoba, on the 14th day of of March, 1875, intituled: "An Act to afford facilities for the construction of a Bridge over the Assiniboine River, between the City of Winnipeg and St. Boniface West," was received by the Governor General on the 16th day of October, 1875.

Given under my hand this 7th day of October, 1876.

WM. B. RICHARDS,

Deputy Governor.

Proclamation disallowing Chapter 37.

GOVERNMENT HOUSE, OTTAWA, Saturday, 7th day of October, 1876.

Present :

HIS HONOR THE DEPUTY OF THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the Legislative Council and Assembly of the said Province, did, on the 14th day of May, 1875, pass an Act which has been transmitted, intituled, as follows, viz.:—

"An Act to amend Chapter 46, 37th Victoria, intituled: 'The Half-Breed Land Grant Protection Act;'"

And, whereas, the said Act has been laid before the Deputy of the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that the said Act should not be left to its operation;

His Honor the Deputy of the Governor General has, thereupon, this day, been pleased, by and with the advice of the Privy Council, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,

Clerk Privy Council.

I, William Buell Richards, Deputy of the Governor General of Canada, do hereby certify, that the Act passed by the Legislature of the Province of Manitoba, on the 14th day of May, 1875, intituled: "An Act to amend Chap. 46, 37th Victoria, intituled: 'The Half-Breed Land Grant Protection Act,'" was received by the Governor General on the 16th day of October, 1875.

Given under my hand this 7th day of October, 1876.

WM. B. RICHARDS,
Deputy Governor.

MANITOBA, 39TH VICTORIA, 1876.

2ND SESSION—2ND PARLIAMENT.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 12th February, 1876.

SIR,—I have the honor to inform you that an Act having for its object the abolition of the Upper House has been passed by both branches of the Legislature, and was assented to by me on the 4th instant.

The first suggestion of this measure was made by yourself, in your Despatch of the 8th May, 1874, addressed to the Honorable Thomas Howard and Joseph Royal, delegates from the Executive Council to confer with the Privy Council.

Subsequently, on the formation of a new Government by the Honorable M. A. Girard, in July, 1874, it was announced by him to the Legislative Assembly, when explaining the policy of the new Government, that they designed to abolish the Upper Chamber.

A Bill was thereafter introduced, with that end in view, in 1874, and was adopted by the Assembly without a division, but was rejected by the Upper House by a vote of four to three.

Shortly prior to the general election of 1875 the Honorable R. A. Davis was called upon to form a Government, on the resignation of the Honorable Mr. Girard, and in his Address to the electors of the City of Winnipeg, published in the newspapers of the Province, an announcement of his determination to carry out the abolition of the Upper Chamber was made while the general election was in progress.

The measure was again introduced during the First Session of the Second Legislature, in 1875, but was again defeated by a vote of the Legislative Council of four to three.

Thus the matter remained, until the recent visit of Honorable Messrs. Davis and Royal to Ottawa, to confer with the Privy Council respecting the financial position of the Province.

Amongst the results of that conference was the following suggestion made by the Honorable Edward Blake, Minister of Justice, in a Memorandum dated the 25th of October, 1875, submitted to and adopted by the Privy Council on the 26th October, 1875, viz.:—

"Even if no more radical change be made, it appears to the Sub-Committee that the present form of Government should be simplified and cheapened by the abolition of the Second Chamber, and the material reduction of the other expenses of Government and Legislation, and that (in case it is proposed to expend a sum larger than that which may be available from the Dominion) provision should be made for supplementing the revenue from local resources to the necessary extent, so as to avoid future deficits."

This suggestion was accepted by the Honorable Messrs. Davis and Royal, by a letter dated 27th October, 1875, and in pursuance of the understanding thus arrived at, a measure to abolish the Legislative Council was introduced in the Legislative Assembly at its recent Session.

The second reading was carried on the following division:—

Yeas.— Messrs. Bird, Bourke, Brown, Cornish, Chenier, Cowan, Davis, Dick, Girard, Gunn, Lemay, Luxton, Lepine, McKay, Murray, McKenzie, Norquay, Nolin, Royal, Taylor.—20.

Nays.—Mr. Sutherland.—1.

The Honorable Mr. Howard was necessarily absent, but would have voted Yea. Mr. Martin was absent from the Province, and the Speaker was in the Chair, the whole House being thus accounted for.

On reaching the Upper House the Honorable Dr. O'Donnell moved the rejection of the Bill at its third reading, with the following result:—

Yeas.—Honorable Messrs. O'Donnell, Hamelin, Dauphinais.—3.

Nays. Honorable Messrs. Inkster, McKay, Gunn, Ogletree.—4.

The Bill was thereafter passed, the Honorable Dr. O'Donnell entering a protest on the Journals.

Having thus narrated the course taken during the past two years in relation to this Act, I now proceed to make some observations respecting it.

1. I have felt much embarrassment in dealing with its sanction or reservation, as I am entirely without instructions as to my duties in assenting to or reserving Bills. Apart from my personal opinion, which is, in view of practical experience of the past Sessions, that the time had not yet fully come when the Upper Chamber could be prudently abolished, I had a legal difficulty to consider, which I will hereafter state.

But before passing to this, I would remark, that we have in the Assembly no men of Parliamentary training and experience; that the population of the Province is mixed, embracing the three elements of: 1stly, English Half-breeds and Selkirk settlers; 2ndly, French Half-breeds; and 3rdly, the new settlers from Ontario, all of whose views and opinions are diverse. That the Government has no Attorney-General, and that there is danger of hasty and crude Legislation being rapidly passed through a single Chamber (constituted as that of Manitoba) which may lead to embarrassment and difficulty. I am of opinion, therefore, that I should be instructed hereafter to reserve for the assent of His Excellency the Governor General, all Bills that may involve any change of the Constitution created by the Manitoba Act of 1870, and that I should also receive instructions as to any other class of Bills which, in the judgment of His Excellency in Council, should be reserved. Hitherto, I have acted to the best of my judgment, conferring with my Council, and endeavoring to examine the Legislation, in the the light of the British North America Act, with regard to the Local and Dominion powers.

2. I now come to the legal question, which I had to consider, and with regard to which, not having come to any positive conclusion, and regarding the Report of the Minister of Justice, adopted by the Privy Council, as an expression of their opinion on the general merits of the measure, I believed that my best course was to accede to the wishes of the Local and Dominion Governments, and assent to the Bill, respecting, however, my obligation to express, as I am now doing, my personal views with

respect to it, and requesting the Privy Council and Minister of Justice to consider the question, when deciding whether the Act shall be left to its operation.

Had I had to deal with the British North America Act alone, which, by the Manitoba Act, Section 2, is incorporated therewith, I should have experienced no difficulty as to the constitutionality of an Act to abolish the Upper House. As the 92nd Section of the British North America Act, in defining the powers of the Provincial Legislatures, expressly confers upon the Legislature in each Province "the exclusive right to make laws" in relation to the amendment, from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor.

The Manitoba Act of 1870 was, however, confirmed by the Imperial Act of 1871, 34 and 35 Vic., Cap. 28, the 6th Clause of which is in the following words :—

"Except as provided by the third Section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act of the said Parliament, in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter, from time to time, the provisions of any Law respecting the qualifications of Electors and Members of the Legislative Assembly, and to make laws respecting elections in the said Province."

The exception mentioned in this section is the power of elargement or diminution of a Province with its consent.

The object of the section was evidently to place the Constitution of Manitoba (it having been enacted by a Dominion Act) in the same position as the Constitutions conferred on the other Provinces, by the Imperial Confederation Act, so that it could only be altered by Imperial legislation, and not by Canadian.

Hence, the positive declaration that the Parliament of Canada cannot alter the Manitoba Act, except in the case of the enlargement or diminution of the Province ; following this declaration is, however, a reservation of powers to the Manitoba Legislature, in the following words:—

"Subject always to the right of the Legislature of the Province of Manitoba to alter from to time the provisions of any laws respecting the qualification of Electors and Members of the Legislative Assembly, and to make laws respecting Elections in the said Province."

In view of this exceptional declaration of power in the Manitoba Legislature, to alter the Manitoba Act, the question of interpretation which arises is this :

Does the section, above cited, granting and specifying a particular power to, and in the Legislature of Manitoba, modify and exclude the general power to alter the Constitution contained in the 92nd Section of the British North America Act? It may be asked if the British North America Act confers the general authority to deal therewith, why was the affirmative grant of the special powers necessary to be inserted in the Act of 1871?

The other aspect of the case would be to hold that the Acts of 1867 and 1871 are to be read as one, and that the conferring of the special authority above referred to was a mere enumeration of the specified powers thereby conferred, and does not exclude the general power granted by Section 92 of the Act of 1867.

The question is an interesting and important one, and being without the means of access to a legal library, I have not had the opportunity of fully studying it, but submit the views that have presented themselves to me, for the maturer consideration of the Minister of Justice, when, in the course of his official duties, he is called upon to report to the Privy Council whether the Act shall be left to its operation or not.

In order to facilitate an early disposal of the matters, I enclose a duly certified copy of the Act, and shall be glad to be advised of the decision of the Privy Council with regard thereto.

I have, &c.,

ALEX. MORRIS,
Lieutenant-Governor.

To the Hon. the Secretary of State,
Ottawa.

Lieutenant Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 15th February, 1876.

SIR,—I have the honor to enclose herewith, for the information of the Privy Council, a certified copy of an Act of the Legislature of Manitoba, respecting the Practice of the Courts, which I assented to on the 4th inst.

I am requested by the Executive Council of Manitoba to call your attention to the 14th Section of the said Act, which is designed to remedy difficulties, which have arisen as to the holding of the County Courts.

Before the arrival of the Chief Justice in Manitoba, an arrangement was come to between Judges McKeagney and Betournay, with my approval, that the two County Courts in the French-speaking Counties of Provencher and Marquette East, should be held by Judge Betournay.

Of late, misunderstandings have arisen between the Judges, as to the holding of the various County Courts.

They do not confer together and arrange who should hold them.

As I failed in arriving at any arrangement otherwise, the Council decided on regulating the matter by legislation, and hence the clause in question was adopted.

As, however, the appointing power, as to the Judges, is in the Governor General in Council, and as possibly the directing them to hold particular Courts might be held to intertere with that power, the exercise of the authority of direction, was made subject to the approval thereof by the Privy Council.

I have, therefore, to request that an Order in Council may be passed without delay, approving of the Executive Council directing which of the Judges shall hold the approaching and subsequent County Courts, in order that difficulties may be avoided, which are not conducive to the public advantage.

I have, &c.,

ALEX. MORRIS,
Lieutenant-Governor.

The Hon. the Secretary of State,
Ottawa.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th April, 1876.

The undersigned has had under consideration the Act of the Legislature of Manitoba, being Chapter 28 of the Statutes, passed on the 4th February, 1876, intituled: "An Act to diminish the expenditure of the Province of Manitoba in certain respects," in connection with the Despatch of the Lieutenant-Governor of Manitoba of 12th February. The Lieutenant-Governor calls attention to two points with reference to this Act.

The first is a question of policy, upon which the undersigned does not feel called upon to offer any remarks, in his capacity as Minister of Justice, it being from the Privy Council, and upon which in effect the Council has already expressed its opinion, in several communications with the Lieutenant-Governor of the Province.

Upon the second, which is a legal question, the undersigned has to observe that the suggestion of the Minute in Council of the 26th October, 1875, did not involve the proposition that the Second Chamber of Manitoba could be abolished by the Legislature. The suggestion simply was, that it should be abolished, the question, by what authority that result could be obtained, not being the subject of consideration at the time.

The undersigned agrees with the view taken in the Despatch, that under the Manitoba Act, 1870, 33 Vic., Chap. 3, and those provisions by the British North America Act incorporated therewith, it was competent to the Provincial Legislature to alter its Constitution by the abolition of the Legislative Council.

The question raised in the Despatch is, whether by the operation of the Imperial Act, 34-35 Vic., Cap. 28, Sec. 6, the constitutional powers of the Legislature of Manitoba are limited in this particular.

It is to be observed that the purpose of the enacting part of this section obviously was not to limit these powers, but to establish their existence on a basis unalterable by the Parliament of Canada, with the view of placing the constitutional rights of the people of Manitoba, on the same footing as those of the people of the other Provinces of Canada.

The section in this spirit enacts that it shall not be competent for the Parliament of Canada to alter any of the provisions of the Manitoba Act, but it proceeds as follows :—

"Subject always to the right of the Legislature of the Province of Manitoba to alter, from time to time, the provisions of any Law respecting the qualification of Electors and Members of the Legislative Assembly, and to make laws respecting elections in the said Province."

This addition was obviously unnecessary, as no rights of the Legislature of Manitoba were affected by the preceding part of the section. Its existence, however, certainly raises a serious question, and, upon the whole, the undersigned thinks it the better opinion that the constitutional rights of the people of Manitoba are not taken away by the words quoted. At any rate, very much is to be said in favor of this view, and the undersigned feels that it would be contrary to the spirit in which the power of disallowance has been exercised, to interfere with the operation of this Act.

It will be for the Legislature of Manitoba, if doubts should be raised as to its validity, to move the proper authorities for such Legislation as shall remove those doubts ; and he recommends that the Act should be left to its operation.

The undersigned abstains, in this Report, from dealing with the general observations made in the Despatch upon the subject of the instructions to the Lieutenant-Governor, thinking it more convenient to make this portion of the Despatch the subject of a separate Report.

Upon the Act of the Province of Manitoba, passed at its Session of 1876, intituled: "An Act respecting the registration of mortgages to the Crown for advances of Provisions and Seed Grain."

The undersigned recommends that this Act be left to its operation.

The undersigned further recommends that a copy of the said last mentioned Act: and the Despatch accompanying it, be transmitted to the Minister of Agriculture, for his information.

EDWARD BLAKE,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 20*th April*, 1876.

On a Memorandum dated 15th April, 1876, from the Honorable the Minister of Justice, stating that he has had under consideration the Act of the Legislature of Manitoba, being Chapter 28 of the Statutes passed on the 6th February, 1876, intituled: "An Act to diminish the expenditure of the Province of Manitoba in certain respects," in connection with the Despatch of the Lieutenant-Governor of Manitoba of the 12th February ; and that for the reasons given in his Report of the 15th April, instant, he recommends that the said Act be left to its operation.

That he has also had before him the Act of the Province of Manitoba passed at its Session of 1876, intituled: "An Act respecting the registration of mortgages to

the Crown for advances of provisions and seed grain," and that he recommends that this Act be left to its operation.

He further recommends that a copy of the said last-mentioned Act, and the Despatch accompanying it, be transmitted to the Minister of Agriculture, for his information.

The Committee concur in the foregoing recommendations, and advise that the same be approved and acted on.

Certified.

W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 17th April, 1876.

Upon the Act of the Legislature of Manitoba passed at the Session of 1876, intituled: "An Act respecting the Practice in the Courts," and the Despatch of the Lieutenant-Governor of the 15th February, 1876, enclosing the said Act, the undersigned begs to report that the power of disallowance should not be exercised in respect of the said Act.

He begs further to report that, in his opinion, the more convenient mode of working, in the first instance, the 14th Section of the said Act, so far as the Government of Canada is concerned therewith, would be by the Privy Council approving the Order, which should be made by the Lieutenant-Governor in Council, determining which of the Judges of the Court of Queen's Bench, should hold the County Court of any County in the Province, and he recommends that this view be communicated to the Lieutenant-Governor of Manitoba.

EDWARD BLAKE,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th April,* 1876.

The Committee have had under consideration the Report, dated 17th April, 1876, from the Honorable the Minister of Justice, upon the Act of the Legislature of Manitoba, passed at the Session of 1876, intituled: "An Act respecting the Practice in the Courts," and the Despatch of the Lieutenant-Governor of the 15th February, 1876, enclosing the said Act.

The Minister reports that the power of disallowance should not be exercised in respect of the said Act.

He further reports that in his opinion the more convenient mode of working, in the first instance, the 14th Section of the Act, so far as the Government of Canada is concerned therewith, would be by the Privy Council approving the Order which should be made by the Lieutenant-Governor in Council, determining which of the Judges of the Court of Queen's Bench should hold the County Court of any County in the Province; and he recommends that this view be communicated to the Lieutenant-Governor of Manitoba.

The Committee concur in the foregoing Report and recommendation of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th October, 1876.

Upon the Statutes of the Legislature of Manitoba, 39 Victoria (1876) the undersigned begs to report as follows, viz.:—

The undersigned does not recommend that the power of disallowance be exercised with reference to the following Acts:—

Chapters 2, 4, 6, 13 to 29 both inclusive.

With reference to Chapter 1, "An Act to amend the School Acts of Manitoba, so as to meet the special requirements of incorporated Cities and Towns."

Section 35.—The provision in this section with reference to indecent behavior, may trench upon the Criminal Law. This, however, is the same as contained in an Act of another Provincial Legislature not objected to, and the undersigned does not recommend any interference with the clause.

Chapter 3.—"An Act respecting Jurors and Juries."

Many of the provisions of this Act appear to trench upon Criminal Procedure, but it is to be observed that an Act substantially the same, passed by the Legislature of Quebec in the year 1869, was left to its operation, being reported as free from objection, and that the Criminal Procedure Act of Canada, 1869, Section 44, passed apparently with a view to confirm the provisions of the Quebec Act, is general in its terms, and removes many of the doubts which might otherwise be entertained as to the Act in question. However, the latter contains certain provisions with reference to the selection of French and English speaking jurors, upon which subject special provision is made by the 40th Section of the Canada Criminal Procedure Act for the Province of Quebec only, and in this, as well as in some other particulars, it may be proper to consider whether confirmatory Legislation should not be had.

Chapter 5.—"An Act to provide for the appointment of a Fire Commissioner for the Cities and Towns in Manitoba, and to define his powers and duties."

Section 9 appears to trench upon Criminal Procedure, and the attention of the Lieutenant-Governor should be called to the difficulty.

Chapter 7.—"An Act to make better provision for the securing of order at Municipal Elections and for other purposes."

Sections 1, 2, 4 and 5 appear to trench upon Criminal Law and Procedure, but similar provisions have been left to their operation in other cases, and the undersigned merely recommends that the attention of the Lieutenant-Governor should be called to them.

Chapter 8.—"An Act to provide for the Incorporation of Mutual Fire Insurance Companies in the Province of Manitoba."

This Act does not, as clearly as might be wished in terms, confine the business within the range permissible to Provincial Companies, and, though the implication from the various provisions is, perhaps, sufficiently strong, yet it might be better that express language should be used limiting the business to a Provincial business.

Section 71.—This section applies the previous section to every Fire Insurance Company, by whatever authority incorporated, and now, or at any time hereafter, transacting Fire Insurance business in the Province.

The previous section requires Companies affected by it, to give very full returns of various matters affecting its business, and, further, when required to make prompt and explicit answer in reply to any enquiries in relation to its transactions which may be required by the Lieutenant-Governor in Council.

The undersigned submits for the consideration of Council how far it is proper that the Companies incorporated under the authority of the Legislature of Canada, should be subjected to these regulations; and he recommends that the attention of the Lieutenant-Governor should be called to this point.

Section 72.—This appears objectionable, as being in effect a provision for a declaration of the insolvency of the Company and for the winding up of its affairs. The attention of the Lieutenant-Governor should be directed to the Act with a view

to its amendment during the ensuing Session, before the time for disallowance is reached.

Chapter 9.—"An Act respecting the Public Works of Manitoba."

Section 8 places under the Provincial Department of Public Works, amongst other things, works for improving the navigation of any water, and other similar subjects. It excludes, however, such as may be under the control of the Dominion Government, and this phrase, though not strictly accurate, probably obviates the necessity of objection to the clause.

Section 31 provides that, whenever it is ascertained that there exists or has been constructed across any river, any boom, mill-dam, embankment or obstruction, obstructing the navigation of the river, the Minister shall have power to stop the obstruction.

It would be well that this power should be so limited, as not to trench upon the authority of Canada.

The undersigned suggests that the attention of the Lieutenant-Governor should be called to the section in this view.

Chapter 10.—"An Act concerning the opening of certain Public Roads."

The undersigned defers for the present his Report on this Act.

Chapter 11.—"An Act respecting the Bureau of Agriculture and Statistics."

This Act creates a Bureau of Statistics.

Observations has been made on former occasions upon the infringement by Provincial Legislation on the subject of Statistics, but that infringement having been repeatedly permitted, the undersigned recommends that the same course should be pursued on this occasion.

Chapter 12.—"An Act respecting the Legislative Assembly."

The undersigned appends a copy of his Report upon a similar Act recently passed by the Legislature of Ontario, which Report is applicable to the Statute now under consideration.

EDWARD BLAKE,
Minister of Justice.

Ontario Statute.

Chapter 9.—"An Act respecting the Legislative Assembly."

(*For copy of the extract alluded to, see page* 136.)

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October,* 1876.

The Committee of Council have had under consideration the Report hereunto annexed, dated 18th October, 1876, from the Honorable the Minister of Justice, upon the Statutes of the Legislature of the Province of Manitoba, 39 Victoria (1876), and they concur in the recommendations and suggestions contained in said Report, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th November, 1876.

With reference to Chapter 10 of the Acts of the Legislature of Manitoba, 39 Victoria, 1876, intituled: "An Act concerning the opening of certain Public Roads," the undersigned begs to report that this Act concerns the opening of certain public roads, and provides for the opening of roads between the surveyed townships and any great highways, or any great rivers.

The undersigned has caused inquiry to be made of the Minister of the Interior, as to whether there is, in his opinion, any objection to leaving this Statute to its operation. The opinion of the Minister is, that there is no such objection, and the undersigned recommends that the power of disallowance be not exercised

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 9th November*, 1876.

On the recommendation of the Honorable the Minister of Justice, and for the reasons stated in his Report, dated 4th November, 1876, the Committee advise that the power of disallowance be not exercised with reference to Chapter 10 of the Acts of the Legislature of Manitoba, 39 Victoria, 1876, intituled: "An Act concerning the opening of certain Public Roads."

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 7th May, 1877.

SIR,—Referring to the Report of the Minister of Justice, dated 18th October, 1876, upon the Statutes of the Province of Manitoba, 39th Victoria (1876), I beg to report:—

That with regard to Section 72 of Chapter 8, intituled: "An Act to provide for the incorporation of Mutual Fire Insurance Companies in Manitoba," it was pointed out that such section was objectionable, as being in effect a provision for a declaration of the insolvency of the Company, and for the winding-up of its affairs, and it was recommended that the attention of the Lieutenant-Governor should be directed to the Act with a view to its amendment during the ensuing Session, before the time for disallowance was reached. No action having been taken by the Legislature of the Province with a view to repealing the objectionable clause, the Lieutenant-Governor was communicated with on 3rd instant, by the Secretary of State, by telegraph, as follows:—

"Referring to letter and enclosures of 27th October last, was seventy-second section of Insurance Act amended as suggested in Report of Minister of Justice?

"If not, do you propose to address any observation on subject before time for disallowance arrives?"

In reply, the Lieutenant-Governor, on the 5th instant, telegraphed as follows:—"Attorney-General writes the section seven Insurance Act you cite was overlooked, but will be repealed next Session, if Act not disallowed," and in a subsequent tele-

gram from the Lieutenant-Governor, on his attention being called to the fact that the section mentioned in his previous telegram was "seven," he says—

"Section seventy-two is the one referred to."

Relying upon the assurance of the Lieutenant-Governor, I recommend that the power of disallowance be not exercised, but that the Act be left to its operation.

A. J. SMITH,
Acting for Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 22nd May*, 1877.

On a Report, dated 7th May, 1877, from the Hon. Mr. Smith, acting in the absence of the Minister of Justice, having reference to Section 72 of Chapter 8 of the of the Statutes of Manitoba, 39th Victoria (1876), intituled: "An Act to provide for the incorporation of Mutual Fire Insurance Companies in Manitoba," recommending for the reasons stated in said Report that the power of disallowance be not exercised, but that the Act be left to its operation.

The Committee concur in the foregoing recommendations and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

MANITOBA, 40TH VICTORIA, 1877.

3RD SESSION—2ND PARLIAMENT.

Lieutenant-Governor Morris to the Secretary of State of Canada.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 11th February, 1876.

SIR,—I have the honor to enclose, herewith, a certified copy of a Bill passed by the Legislature of Manitoba, at its recent Session, intituled: "An Act to incorporate the Manitoba Investment Association, limited," but which I reseved for the signification of the pleasure of His Excellency the Governor General.

My reasons for reserving this Bill were, that it seemed to me, that the powers conferred upon the Association by the 5th Section, were beyond the authority of the Local Legislature to confer, inasmuch as the Parliament of Canada, by the British

North America Act, has the exclusive legislative authority with regard to "banking" and "interest," and it appeared to me that the Bill contemplated that the Association should carry on some of the branches of business, usually regarded as banking.

The section in question authorizes the Association to borrow money at such rates of interest as the Directors think proper, and for that purpose to make any mortgage bonds or other instruments, under the seal of the Company, for sums not less than $500 each.

It also authorizes the Company to receive money on deposits for such period and at such rates of interest as may be agreed upon, such deposits and outstanding mortgages, bonds, or other instruments of the Association, not to exceed at any one time the subscribed capital stock of the Association, which the 13th Section fixed at $500,000, whereof one-tenth was to be paid up before the transaction of business by the Company. The Bill did not come under my inspection until the morning of the day that the Legislature was prorogued, and as I had not time for careful consideration of the effect of the provisions I have above referred to, I deemed it right to reserve the Bill, and I have, in consequence, to request that the pleasure of His Excellency the Governor General with regard thereto may be signified in the usual manner.

I have, &c.,

ALEX. MORRIS,
Lieutenant-Governor.

To the Hon. the Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th October, 1876.

Upon the Bill, intituled: "An Act to incorporate the Manitoba Investment Association (limited)," passed in the last Session of the Legislature of that Province, and reserved on the 4th February, 1876, by the Lieutenant-Governor, and upon the Despatch of the Lieutenant-Governor annexed to the Bill, the undersigned has to report as follows:—

The Lieutenant-Governor reserved the Bill upon the presumption that the powers conferred upon the Association by the 5th (fifth) Section, which authorizes the Directors to "borrow money on behalf of the Company at such rates of interest and upon such terms as they may from time to time think proper; and the Directors may for that purpose make and execute any mortgage, bonds or other instruments under the common seal of the Company, for sums of not less than five hundred dollars each, or assign, transfer or deposit by way of equitable mortgage or otherwise, any of the documents of title deeds, muniments, securities, or property of the Company, and either with or without power of sale or other special provisions as the Director, shall deem expedient, provided that the aggregate of the sum or sums so borrowed, shall not at any time exceed the amount of the subscribed capital of the Company for the time being not paid up, and no lender shall be bound to enquire into the occasion for any such loan, into the validity of any resolution authorizing the same or the purpose for which such loan is wanted.

And by the 9th (ninth) Section, which authorizes the Company to receive money on deposit for such periods and for such rate of interest as may be agreed on, provided that the aggregate amounts of such deposits, together with the amount of the mortgages, bonds or other instruments given by the Association remaining unpaid, shall not, at any time, exceed the amount of the subscribed capital stock of the Association,"—were beyond the authority of a Local Legislature, having regard to the fact that by the British North America Act, 1867, the Parliament of Canada has exclusive authority with regard to Banking and Interest.

The question thus raised is one of very great difficulty, and the undersigned cannot but observe that considerable complication, and, perhaps, serious difficulties, may arise from the course which has been pursued in more than one Provincial Act on this subject; but, having regard to the fact that many Provincial Acts, dealing with these subjects have been left to their operation, the undersigned would have deemed it beyond his province, as Minister of Justice, to recommend that, upon the grounds stated by the Lieutenant-Governor, a different course should be pursued with reference to this Act had it been finally passed—since he conceives that a certain policy has been established by the course hitherto pursued—and that it is for Council to determine whether, at this time, it is possible to reconsider the question, or to take a new departure upon such a subject.

Amongst the Acts which have been left to their operation, he may refer to the Ontario Acts, 1873, Cap. 107:—

"An Act to incorporate the Toronto Financial Corporation, 1873, Cap. 128."

"An Act to revive and amend the Act incorporating the Toronto House Building Association."

1868-9, Chapter 68. "An Act to incorporate the Ontario Trust and Investment Company."

1868, Chapter 63. "An Act to incorporate the Toronto Trust Company."

But the undersigned feels bound to call the attention of Council to the fact that the Act now under consideration confers, upon a Provincial Company, unlimited power to borrow, whereas, under the above Acts, the borrowing powers are limited to the amount of the Company's paid up capital, and the present policy of the Canadian Parliament, as evidenced by the mode in which private Acts for the incorporation of similar Companies were dealt with last Session, is to limit such powers. Yet, even here the undersigned is not met by the fact that, under the General Joint Stock Companies' Act of Ontario, Cap. 35 of the Statutes of 1874, which was left to its operation, provision was made for incorporating Companies for any purpose or objects to which the legislative authority of the Legislature extends, except the construction and the working of railways and the business of insurance, and that, by the 25th Section of that Act, power is given to the Directors of Companies chartered thereunder, with the sanction of a certain proportion of the shareholders, to borrow money on the credit of the Company, and issue bonds, debentures or other securities therefor.

This power is unlimited, and, under this Statute, a Loan or Investment Company may be incorporated and so obtain unlimited power to borrow; and upon the whole, therefore, the impression of the undersigned would have been (had this Bill come before him as an Act, with a view to his decision whether it should be disallowed or not) that it should be left to its operation, but this is not the question.

The question is whether Council should advise His Excellency to assent to this Act, which is a reserved Bill.

It appears to the undersigned that, as a general rule, the Lieutenant-Governor should himself act with the advice of Ministers upon the question of assent.

To this rule there will no doubt be, from time to time, exceptions, but the undersigned submits to Council whether this Bill comes within the exceptions. Upon the whole, considering the difficulties to which the undersigned has adverted, and the inconveniences which might result from the Governor in Council being called upon to give vitality to Provincial legislation of this description, the undersigned recommends that no action be taken upon the Bill in question. If re-introduced into the Local Legislature, the Local Government will be able to consider the difficulties which have been stated, with a view to recommend such amendments as they may think expedient.

EDWARD BLAKE,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th October*, 1876.

The Committee of the Privy Council have had under consideration the Report hereunto annexed, from the Honorable the Minister of Justice in reference to a Bill, intituled: "An Act to incorporate the Manitoba Investment Association (Limited)," passed in the last Session of the Legislature of that Province, and reserved on the 4th February, 1876, by the Lieutenant-Governor for your Excellency's sanction, and they respectfully submit their concurrence in the said Report, and accordingly advise that in view of the difficulties therein adverted to, the Lieutenant-Governor be informed that Your Excellency does not propose to signify your pleasure with respect to this reserved Act, or to take any action upon it.

Certified.

W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th January, 1878.

I have the honor to report upon the Statutes of the Legislative Assembly of the Province of Manitoba, in the 40th year of Her Majesty's reign (1877), received by the Secretary of State on the 15th day of May, as follows :—

Cap. 1.—" An Act respecting the preservation of the Public Health."

Cap. 2.—" An Act for the definition of the Boundaries of the Province."

Cap. 3.—" An Act to divide the Province of Manitoba into Counties."

Cap. 4.—" An Act to provide for a fair and equitable redistribution of the Electoral Divisions of the Province."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 5.—" An Act to amend the Act passed in the thirty-seventh year of Her Majesty's reign, intituled : ' The Half-breed Land Grant Protection Act.' "

This Act will be reported upon at a future time.

Cap. 6.—" An Act respecting County Municipalities."

The 15th section of this Act provides that any person wilfully making a false declaration of his right to vote shall, on conviction thereof before any two or more Justices of the Peace, be subject to a fine not greater than one hundred dollars, and in default of payment of such fine to be levied by distress, or, in case of insufficient distress, to imprisonment for a period not greater than forty days.

This section seems to entrench upon the Criminal Law. The Act respecting perjury, being Cap. 23, of 32 and 33 Vic. (1869), seems to make sufficient provision for the punishment of a person making a false declaration in such a case.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

I think that so much of the 15th Section as provides for the punishment of a person making a false declaration should be repealed before the time expires within which the Act may be disallowed.

The 16th Section gives the Council of every Municipality power to pass By-laws in relation to matters coming within certain specified classes of subjects, among others by the 27th Sub-section, the imposing penalties for light weight or short count or short measurement in anything marketed.

This seems to entrench upon the subject of weights and measures, which, by the 91st Section of the British North America Act, 1867, comes within the exclusive Legislative control of the Parliament of Canada. The inconvenience of a possible conflict between the laws of Canada and the By-laws of a Municipality upon this subject, is obvious.

I recommend that the Lieutenant-Governor's attention be called to these remarks.

Section 17 empowers the Council to assess and levy, on the whole ratable property within its jurisdiction, a sufficient sum in each year to pay all valid debts of the Corporation.

The 20th Section provides that the following real estate shall be exempt from taxation under this Act:—

1. Real estate vested in or held in trust for Her Majesty, or for the public use of the Province.
2. Real estate vested in or held in trust for the Municipality.
3. Real estate vested in or held in trust for any tribe or body of Indians.
4. Every place of public worship, houses of religion, &c.

By the 125th Section of the British North America Act, 1867, it is provided that "no lands or property belonging to Canada, or any other Province, shall be liable to taxation."

It cannot be said that the exemption contained in the 20th section is as wide as it should be, having reference to the provision of the British North America Act just alluded to, but as a previous Act respecting County Municipalities, passed by the Manitoba Legislature, namely, 38th Victoria (1875), Cap. 41, containing similar provisions, was allowed to go into operation, and as any attempt to tax, under this Act, any land or property belonging to Canada would be useless, I cannot recommend any interference with the Act, on account of the provisions of this clause. Had the Act been the first of its kind which had been passed in the Province, I would have felt called upon to submit, for the consideration of Council, the question whether or not the exemptions from taxation should not be extended to the right of way and other property of any Company which might be formed for the construction of the Canadian Pacific Railway; but as the Act above mentioned, namely 38th Victoria, (1875) Cap. 41, contains no such exemption, and as other Legislation in Manitoba has been left to its operation, under which taxes are authorized to be levied, and which contains no exemption in favor of any Canadian Pacific Railway Company (see Cap. 19, 35th Victoria (1872), and Cap. 50 (38th Victoria, 1875), it would seem that an objection to the Act could not now, on that ground, be made, without departing from the principles which appear to have been established with reference to the exercise of the power of disallowance, and in this case the fact that the previous Legislation, which has been left to its operation is in the same Province, and in respect of the same subject matter, is an additional reason, if one were required, why the question cannot now be considered an open one.

Cap. 7.—"An Act to further amend the Act respecting Municipalities."

Cap. 8.—"An Act relating to the performance of Statute Labor in outer Districts."

Cap. 9.—"An Act further to amend the Act to establish a County Court in the Province of Manitoba, and for other purposes."

Cap. 10.—"An Act respecting Marriage Licenses."

Cap. 11.—"An Act to establish a Provincial University."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 12.—"An Act to amend the Act to establish a system of Education in this Province."

The 17th Section of this Act provides that if any person wilfully makes a false declaration of his right to vote, he shall be liable to a penalty of not less than fifty nor more than one hundred dollars, and, in case of default of payment, to imprisonment during a period of not more than thirty days.

This seems to entrench upon the Criminal Law respecting perjury.

The Perjury Act, above referred to, seems to provide for punishment of a person for making a false declaration in such a case.

I think this section should be repealed, and I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 13.—"An Act respecting the Medical Profession."

To this Act there appears to be no objection, and I recommend that the same be left to its operation.

Cap. 14.—"An Act respecting the Study and Practice of Law."

This Act incorporates all persons in actual practice of the Legal profession in the Province, under the name of the Law Society of Manitoba, provides who may be admitted and enrolled as an Attorney in the Province. The persons entitled to be admitted to practice at the Bar are:—

1. Those who have been admitted into the Law Society as students of law, and have been standing on the books for five years and have conformed themselves to the rules of the Society.

2. Those who have taken certain University degrees, have been admitted into the Law Society and have been standing on the books for three years.

3. Any person who has been duly called to the Bar of any of Her Majesty's Superior Courts of Law or Equity in any of the Provinces of the Dominion of Canada or in England, Scotland or Ireland, and who produces sufficient evidence of such call, and testimony of good character, to the satisfaction of the Law Society.

Those entitled to be enrolled Attorneys are:—

1. Persons heretofore empowered to practice as Attorneys in the Province.

2. Those who have served under Articles to a practising Attorney in the Province for five years, and who have conformed themselves to the rules of the Society.

3. Those who have taken certain University degrees and have served under Articles to a practising Attorney in the Province, for three years and have conformed to the rules of the Society.

4. Any Attorney or Solicitor in good standing of any of Her Majesty's Superior Courts of Law or Equity in any of the Provinces of the Dominion, or England, Scotland or Ireland, shall be *de facto* admitted to practice as an Attorney or Solicitor in the Courts of the Province of Manitoba, on production of his certificate or diploma, and on proof of his good character, and upon such terms as such Benchers shall see fit.

In the year 1872 a Bill was passed by the Legislature of Manitoba, intituled: "An Act to constitute and incorporate the Law Society of Manitoba," and was reserved for the assent of the Governor General. The Lieutenant-Governor, in his Despatch accompanying it, stated as follows:—

This Bill, even if the policy were sound, under any circumstances seemed to me premature. In a country like this obstacles should not be thrown in the way of any person of good standing at the Bar of any other Province being admitted to the practice of the Law here.

If the provisions of the Union Act, which confine the selection of Judges in any Province to the Bar of that Province, should be, as I think they are, applicable to Manitoba, it would not be desirable so to fence the admission here as to restrict the Government at Ottawa, in their selection of Judges, to such persons as the existing members of the Bar here might think fit to admit. But another important objection is the power given under the Bill to the Bar to regulate their own fees. Whether that is desirable at any stage of the history of the Bar of a country, there can be no doubt that it would be a most dangerous power to extend to the Bar of this Province, in its present condition. For the reasons mentioned by the Lieutenant-Governor, the assent of His Excellency was not given to the Bill. As the Act now under consideration does not present the objectionable features contained in the previous Bill, and as provision is made for the calling to the Bar of persons who have been only called to the Bar of any of Her Majesty's Superior Courts of Law or Equity, in any of the Provinces of the Dominion, and for the enrolment as Attorney, of any Attorney and Solicitor in good standing of any of Her Majesty's Superior Courts of Law or Equity in any of the Provinces of the Dominion, I recommend that the Act be left to its operation.

Chap. 15.—"An Act to authorize Corporations and other institutions incorporated out of the Province of Manitoba to lend and invest moneys therein."

The first section of this Act provides that where any Institution or Corporation, duly incorporated under the laws of the Parliament of Great Britain and Ireland, or

of the Dominion of Canada, for the purpose of lending or investing moneys, may apply for and receive a license to carry on business within the Province of Manitoba, and certain conditions are to be complied with, and a certain fee (to be fixed by the Lieutenant-Governor in Council) paid before the license can be granted.

The right of a Provincial Legislature to provide for the granting of a license by the Province to a Company incorporated by the Parliament of Canada, and which by its Act of incorporation could be given the right to do business in the various Provinces, is at least doubtful, but inasmuch as similar Legislation has been allowed to go into operation in the Province of Ontario (*See* Cap. 27 of 39 Vic., 1875-76, Ontario), I do not recommend any interference with this Act. I recommend, however, that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 16.—"An Act to amend 'The Manitoba Election Act.'"

To this Act there appears to be no objection, and I recommend that it be left to its operation.

Cap. 17.—"An Act to legalize the lists of the Parliamentary Electors of 1877 for the City of Winnipeg."

The word "Parliamentary," which occurs in the title to this Act and also in the first section, is objectionable. This was pointed out in the Report of the Minister of Justice upon the Manitoba Legislation, dated 21st February, 1874, and also by the Report of the Minister of Justice, dated 6th October, 1876. It is, therefore, unnecessary for me to do more than refer to those Reports.

I recommend that the attention of the Lieutenant-Governor be called to this Act, with a view to its amendment so as to obviate the objection mentioned.

Cap. 18.—"An Act to amend the Manitoba Jurors' Act."

Cap. 19.—"An Act respecting the Office of Queen's Printer for the Province, and the publishing of the Manitoba Official *Gazette*."

Cap. 20.—"An Act to amend the Treasury Department Act."

Cap. 21.—"An Act to give authority to Land Surveyors to administer Oaths."

Cap. 22.—"An Act respecting the Rights and Liabilities of Inn-keepers."

Cap. 23.—"An Act respecting Lunatics and persons *non compos mentis*."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 24.—"An Act respecting Inoculation and Vaccination."

Cap. 25.—"An Act to provide for the Incorporation of Charitable, Benevolent and Saving Associations."

Cap. 26.—"An Act respecting Apprentices and Minors."

Cap. 27.—"An Act to amend 'The Mechanics' Lien Act of 1877.'"

Cap. 28.—"An Act to amend the Act respecting Mortgages and the sale of Personal Property, with certain other amendments."

Cap. 29.—"An Act to prevent Accidents and facilitate the Egress from Public Buildings."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 30.—"An Act respecting Companies for the establishment of Cemeteries in Manitoba."

Section 28 provides, among other things, for the punishment by fine of any person who wilfully destroys, defaces, &c., any tomb, monument, &c., or any tree, shrub, or plant in a cemetery.

This seems to entrench somewhat upon the Criminal Law relating to malicious injuries to property. (*See* Cap. 22, of 32 and 33 Vic., 1869.)

I do not, however, recommend the disallowance of this Act, but I recommend that the attention of the Lieutenant-Governor be called to the provisions.

Cap. 31.—"An Act respecting Conveyance to Trustees for Burial places."

Cap. 32.—"An Act respecting Interments and Disinterments."

Cap. 33.—"An Act to further amend "An Act for the establishment of Agricultural and Arboricultural Societies in Manitoba."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 34.—"An Act to amend the Acts relating to the sale and traffic of Intoxicating Liquors, and the granting of Licenses in this Province."

The third Section of this Act provides that any person who shall have obtained a license to sell intoxicating liquors by means of fraud, &c., or by putting or inscribing or causing to be put or inscribed upon any of the documents referred to in the section, the names of any persons without their consent or knowledge, shall, upon conviction, be liable to a fine not exceeding $300.

This provision seems somewhat to entrench upon the Criminal Law respecting forgery.

I recommend that the attention of the Lieutenant-Governor be called to it.

Cap. 35.—"An Act to amend an Act for the protection of Game in the Province of Manitoba."

To this Act there appears to be no objection, and I recommend that it be left to its operation.

Cap. 36.—"An Act to repeal 34th Vic., Cap. 21, to make better provision in reference to Dogs."

In the first section of this Act, which provides for the killing of dogs which worry sheep, under a certain penalty, the amount of the penalty is left blank.

Cap. 37.—"An Act to require the owners of Threshing and other Machines to guard against Accidents."

Cap. 38.—"An Act further to amend an Act concerning Stray Animals."

Cap. 39.—"An Act to amend the Act to prevent Breachy Animals running at large."

Cap. 40.—"An Act in regard to Marks and Brands of Cattle."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 41.—"An Act to incorporate Wesley College."

Cap. 42.—"An Act to incorporate Trinity College."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

Cap. 43.—"An Act to amend the amended Act respecting the Incorporation of the City of Winnipeg."

The sixth Section of the Act seems to entrench upon the subject of interest, which by the British North America Act comes under the exclusive Legislative control of the Parliament of Canada.

The 13th Section is as follows:—

"All fines and penalties imposed, levied and collected by the Police Magistrate appointed under this Act, shall be, unless otherwise provided, paid into the City Exchequer, and form a fund for the payment of the salary of the Police Magistrate and maintaining the Police Force of the said City."

The Province of British Columbia, in the year 1877, passed an Act authorizing "certain Municipalities to retain and use the Court fines, fees and forfeitures, as part of the Civic Revenue." The approved Report upon this subject contains the following remarks, viz.:—

"Notwithstanding anything to the contrary contained in any Act, Ordinance, or Proclamation, it shall be lawful for every Municipality paying the annual salary of a Police Magistrate and maintaining a Police Force, to retain and use, as part of the Municipal Revenues, all Police Court fines, fees and forfeitures."

This provision is wide enough to cover not only fines and forfeitures incurred for breach or non-compliance with Laws of the Province made in relation to matters coming within the classes of subjects over which the Provincial Legislature has exclusive legislative authority, but also all fines and forfeitures, which may be imposed at the Police Court under the Criminal Law of Canada, or by reason of the breach of, or non-compliance with, the laws of Canada. The 102nd Section of the British North America Act, 1867, provides that:—

"All duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick before and at the Union had and have power of

appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund to be appropriated for the Public Service of Canada in the manner and subject to the charges in this Act provided."

"There does not appear to be any provision in the Act reserving to the Provinces the revenues derived from fines or forfeitures under the Criminal Law, and as the Parliament of Canada has exclusive Legislative authority over the Criminal Law (except the constitution of Courts of Criminal Jurisdiction), and as the Parliament alone can alter the existing Criminal Law under which fines and forfeitures are imposed and can create new crimes punishable by fine or forfeiture, and alone increase or reduce the amounts of fines and forfeitures under the Criminal Law or altogether abolish them, I am of opinion that the provision of this Act, so far as it attempts to control or dispose of fines and forfeitures imposed by the Criminal Law or by any of the other laws of Canada, is *ultra vires* of the powers of the Provincial Legislature, and I, recommend that the attention of the Lieutenant-Governor be called to this Act to the end that the same may at the next Session of the Provincial Legislature be repealed, or so amended as to confine it to fines and forfeitures arising under Laws of the Province made in relation to matters coming within the exclusive Legislative authority of the Province, otherwise that it be disallowed."

These remarks are applicable to the section now under consideration. I recommend that the same course be pursued with this section, as was pursued in the case of the Act of British Columbia.

Cap. 44.—"An Act to amend an Act 38 Vic., Cap. 46, intituled: 'An Act to incorporate the Manitoba Western Railway Company.'"

Cap. 45.—"An Act to incorporate the Manitoba Investment Association."

Chap. 46.—An Act to amend and repeal certain enactments of the two last Sessions of the Legislature of the Province."

Cap. 47.—"An Act to amend certain Acts of the present Session of the Legislature."

Cap. 48.—"An Act for granting to Her Majesty certains sums of money required for defraying certain expenses of the Civil Government of the Province of Manitoba for the fiscal year ending on the 31st December, 1877, and for other purposes connected with the Public Service."

These Acts appear to be unobjectionable, and I recommend that they be left to their operation.

Z. A. LASH,

Deputy Minister of Justice.

I concur.

R. LAFLAMME,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 19*th February*, 1878.

The Committee of Council have had before them a Report, dated 15th January, 1878, from the Honorable the Minister of Justice, upon the Statutes passed by the Legislative Assembly of the Province of Manitoba, in the fortieth year of Her Majesty's reign (1877), and they concur in the views and recommendations therein submitted, and accordingly advise that the Acts reported as unobjectionable be left to their operation, that the attention of the Lieutenant-Governor of Manitoba be called to the remarks submitted in the Report of the Minister of Justice, and, with that view, that a copy of said Report be transmitted to the Lieutenant-Governor.

W. A. HIMSWORTH,

Clerk Privy Council.

Deputy Minister of Justice to Under Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 25th January, 1878.

SIR,—As the Manitoba Legislature is now in Session, and will likely rise at an early date, and as some of the Acts passed last year in Manitoba require to be amended as suggested in the Report upon them, and as a copy of the Report has to be sent to the Lieutenant-Governor to-day, I think it would be well that a telegram should be sent to him stating that a copy of the Report has been forwarded, and that amendatory Legislation will be required this Session.

Your obedient servant,

Z. A. LASH,

Deputy Minister of Justice.

The Under Secretary of State.

Under Secretary Langevin to Lieutenant-Governor Cauchon.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 25th January, 1878.

Copy of a Report upon Manitoba Acts passed last year sent to you by mail to-day, and amendatory Legislation will be required this Session.

EDOUARD J. LANGEVIN,

Under Secretary of State.

To Lieutenant-Governor of Manitoba.

Lieutenant-Governor Cauchon to Secretary of State.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 7th February, 1878.

SIR,—Your Despatch of the 29th January last (158 on 59 of '77), with its contents, a Report of the Department of Justice of the 25th January, is received, but, unfortunately, it reached me the day after that of the prorogation of Parliament, and consequently too late for my Government to take action upon it.

I have, &c.,

JOSEPH CAUCHON,

Lieutenant Governor.

The Hon. the Secretary of State.

Lieutenant-Governor Cauchon to Secretary of State.

GOVERNMENT HOUSE, FORT GARRY, MANITOBA, 6th March, 1878.

SIR,—You will find enclosed a letter from the Attorney-General, written in the name of the Government, and which contains their intentions in relation to the "Manitoba Statutes" therein mentioned.

I have, &c.,

JOSEPH CAUCHON,

Lieutenant-Governor.

The Hon. the Secretary of State.

Attorney-General Royal to Lieutenant-Governor Cauchon.

ATTORNEY-GENERAL'S OFFICE, WINNIPEG, MANITOBA, 5th March, 1878.

SIR,—With reference to the letter of the Secretary of State of the 25th January last, transmitting a copy of a Report of the Honorable the Minister of Justice, upon the Statutes of Manitoba, passed in the fortieth year of Her Majesty's reign, and to the letter of the said Secretary of State of the 20th February last, transmitting a copy of an Order in Council approving the above Report, I beg to state that as the general Statutes of the Province are about to be consolidated in virtue of a law passed this last Session of the Provincial Legislature, the Commissioners will be instructed to avail themselves of the suggestions contained in the above mentioned Report.

I have, &c.,

J. ROYAL,

Provincial Secretary and Attorney-General.

His Honor
The Hon. J. CAUCHON, Lieutenant-Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th April, 1878.

Referring to my Report, dated 15th January, 1878, upon the Statutes passed by the Legislative Assembly of the Province of Manitoba, in the year 1877, and in which certain objections were taken to certain provisions of those Statutes, I beg to report:

That a communication has been received from the Lieutenant-Governor, enclosing a letter from Attorney-General Royal on behalf of the Government, stating the intention of the Government in reference to the objections taken. This letter referring to the Report and to the Order in Council approving the same, states that as the General Statutes of the Province are about to be consolidated, pursuant to a Law passed during the last Session of the Legislature, the Commissioners will be instructed to follow the suggestions contained in the Report.

Relying upon the assurance contained in this letter that the objections to the Statutes will be thus removed, I recommend that the various Acts to which objection has been taken, be left to their operation.

Z. A. LASH,

Deputy Minister of Justice.

I concur.

R. LAFLAMME,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd May*, 1878.

On a Memorandum dated 27th April, 1878, from the Honorable Minister of Justice having reference to his Report dated 15th January, 1878, upon the Statutes passed by the Legislative Assembly of Manitoba in the year 1877, and in which certain objections were taken to certain provisions of those Statutes;

The Minister states that a communication has been received from Attorney-General Royal, on behalf of the Government, stating the intention of the Government in reference to the objections taken.

That this letter, referring to the Report and to the Order in Council approving the same, states that, as the General Statutes of the Province are about to be consolidated, pursuant to a Law passed during the last Session of the Legislature, the Commissioners will be instructed to follow the suggestions contained in the Report.

That relying upon the assurance contained in this letter that the objections to the Statutes will be thus removed, he, the Minister, recommends that the various Acts to which objection has been taken, be left to their operation.

The Committee advise that the Acts alluded to be left to their operation as recommended.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd May, 1878.

I have the honor now to report upon Cap. 5 of the Statutes passed by the Legislature of the Province of Manitoba in the year 1877, which Chapter was omitted from the previous Report. It is intituled: "An Act to amend the Act passed in the 37th year of Her Majesty's reign, intituled: 'The Half-breed Land Grant Protection Act,'" and amends the Half-breed Land Grant Protection Act, passed in the year 1874, reserved for the assent of the Governor General, reported upon by the Minister of Justice on the 21st February, 1874, and assented to by His Excellency in Council on the 27th February, 1874.

In the Report which accompanied the reserved Bill, the Lieutenant-Governor stated that speculators had bought largely from Half-breeds their claims to allotments at low prices, ranging as low in some cases as $15, the maximum being $50. That the object of the Bill was to cancel all these sales and give the vendee an action to recover back the price.

One of the reasons for passing the Bill, as mentioned in the preamble, appears to have been that the Half-breeds entitled to participate in the grant, made the agreements to sell their rights to speculators in evident ignorance of the value of their shares, accepting therefor only a trifling consideration.

In 1875, an Act was passed, being 38th Vic., Cap. 37, to amend this Half-breed Land Grant Protection Act. It provided in effect that if the Half-breed who had sold his right returned or tendered to the purchaser the full consideration, and such expense as the purchaser had incurred in the transaction, with interest at 12 per cent. per annum, within three months from the passing of this Act of 1874, the contract of sale should be void, otherwise, if in writing that it should be valid, and that he should assign to the purchaser the lands granted to him within three months after the receipt by him of the Patent from the Crown, and it was provided that notice of the passage of this Act of 1875 should be given in the *Manitoba Gazette* for three months immediately after its being assented to. This Act, upon the Report of the Minister of Justice, was disallowed.

It appears that no notice as required was given in the *Manitoba Gazette*, and that the Honorable Mr. Royal, then Attorney-General of Manitoba, who happened to be in Ottawa at the time the Act was being reported upon, stated that the notice was not given in consequence of a doubt on the part of himself and his colleagues, whether the Act would be allowed by the Governor General, and that the Act had not been considered as in force in the Province.

The present Act provides that, "Any sale for a valid consideration, and duly made and executed by deed, after the coming into force of this Act, by any Half-breed having legal right to a lot of land as such, out of the one million four hundred

thousand acres of land in the Province for Half-breeds, appropriated by the Dominion, of such lot shall be held to be legal and effectual for all purposes whatsoever, and shall transfer to the purchaser the rights of the vendor thereto." Seven years have now passed since the land was appropriated for the Half-breeds, and more than four years have elapsed since the passing of the original Half-breed Land Grant Protection Act; during that time the Half-breeds must, as a general rule, become well acquainted with the value of their interests in the lands. The circumstances therefore under which the original Act was passed have considerably changed since the time. As the Legislature, which in the public interests passed the Act of 1874, have thought it expedient, in the public interests of 1876, under changed circumstances, to modify that Act, and as the present Act renders valid only such sales as are made for valid consideration by deed after the coming into force of the Act, and as the original Act as to the transactions affected by it, has not been interfered with, I think that the Act should be left to its operation, and I recommend accordingly.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th May*, 1878.

On the recommendation of the Hon. the Minister of Justice for the reasons specified in his Report dated 3rd May, 1878, the Committee advise that the Act, Chapter 5, passed by the Legislature of the Province of Manitoba in the year 1877, and intituled: "An Act to amend the Act passed in the 37th year of Her Majesty's reign, intituled: 'The Half-breed Land Grant Protection Act,'" be left to its operation

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

MANITOBA, 41ST VICTORIA, 1878.

4TH SESSION—2ND PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd July, 1878.

During the last Session of the Legislature of Manitoba an Act was passed intituled: "An Act to create a Fund for Educational Purposes."

This Act imposes an annual tax of five cents per acre on all lands owned by a non-resident, and that whether improved or not, and a tax of one cent per acre on all lands owned by any resident or corporation in excess of 640 acres.

Strong opposition has been made to this Act by the Hudson Bay Company, who claim that its provisions are an interference with terms of the deed of surrender, under which that Company surrendered to Her Majesty certain rights in Rupert's Land.

The Company have expressed their intention of presenting a petition to the Dominion Government, praying that the Act may be disallowed, and are now engaged in the preparation of their case in support of that petition.

As the questions involved are serious ones, I recommend that the Government of Manitoba be requested not to actively enforce the provisions of the Act until the Government has had an opportunity of determiuing whether or not the same should be left to its operation.

It should be added that the Government of Manitoba will be afforded facilities for replying to any objections which may be raised to the Act, on the part of the Hudson Bay Company, or others.

R. LAFLAMME,
Minister of Justice.

Secretary of State to Lieutenant-Governor Cauchon.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 24th July, 1878.

SIR,—Adverting to the Act passed by the Legislature of the Province of Manitoba during the last Session thereof, intituled: "An Act to create a Fund for Educational purposes;"

I have the honor to acquaint you that representations have been made to this Government to the effect that the provisions of the Act are an interference with certain alleged rights, and that application is about to be made for its disallowance.

I have therefore to request that, as the questions involved are serious ones, the provisions of the Act may not be actively enforced until this Government shall have had an opportunity of determining whether or not the same should be left to its operation.

I have to add that your Government will be afforded facilities for replying to any objections which may be raised to the Act by the parties who propose to ask for disallowance.

I have, &c.,

R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 31*st July*, 1878.

The Committee of Council have had under consideration a Despatch dated 27th June, 1878, from the Right Honorable Sir M. E. Hicks-Beach to His Excellency the Governor General, transmitting a copy of a letter from the Secretary of the Hudson Bay Company to the Under Secretary of State for the Colonies, bringing under the notice of Sir M. E. Hicks-Beach, the provisions of an Act passed in the last Session of the Legislature of Manitoba, intituled: "An Act to create a Fund for Educational Purposes," and alleging certain reasons why lands of the Hudson Bay Company,

should not be classed as lands owned by the non-residents, or be subject to the taxation proposed to be levied under the provisions of the Bill.

The Committee recommend that Sir M. E. Hicks-Beach be informed that the question of the constitutional power of the Legislature of Manitoba to enact such a Law is under the consideration of the Minister of Justice, and should the Hudson Bay Company, through their Legal Advisers, think proper to offer any suggestions or arguments in favor of the view taken by them, they will receive the fullest consideration from the Minister of Justice, and in the meantime the Government of Manitoba has been requested not to actively enforce the provisions of the Act until the Government of Canada has had an opportunity of determining whether or not the law should be left to its operation.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor of Manitoba to Secretary of State.

OTTAWA, 15th August, 1878.

By telegraph from Winnipeg, Man., to Hon. Secretary of State.

Preliminaries for collection of land tax having all taken place, my Government desire to know, without delay, reasons urged in favor of disallowance of Smith Law.

JOSEPH CAUCHON,
Lieutenant-Governor.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 19th August, 1878.

I recommend that the Lieutenant-Governor of Manitoba be informed that this Government has been advised that those seeking the disallowance of the Act referred to, are about to present a Petition for that purpose, and are now engaged in the preparation of their case in support of that Petition. That the case has not yet been received, and that as soon as it comes to hand it will be communicated to the Government of Manitoba.

Z. A. LASH,
Deputy Minister of Justice.

Secretary of State to Lieutenant-Governor Cauchon.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 20th August, 1878.

SIR,—I have the honor to inform you in reply to your telegram of the 15th instant, requesting that your Government may be informed of the reasons urged in favor of disallowing the Act of the Manitoba Legislature passed at its last Session, intituled: "An Act to create a Fund for Educational Purposes," that this Government has been advised that those seeking the disallowance of the Act in question are about to present a Petition for that purpose; and are now engaged in the preparation of their case in support of that Petition.

The case has not yet been received; so soon however as it has been submitted, it will be communicated to the Government of Manitoba.

I have, &c.,

R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Secretary of State to Lieutenant-Governor Cauchon.

OTTAWA, 31st October, 1879.

SIR,—I have the honor to draw your attention to the fact that although the Statutes of Manitoba of 1878 have been issued and distributed, yet it appears that no authenticated copy of these Statutes has been forwarded to this Government in accordance with the British North America Act of 1867, and to request that you will cause a copy duly certified to be transmitted to me, at your early convenience.

I have &c.,

J. C. AIKINS,
Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Lieutenant-Governor Cauchon to Secretary of State.

GOVERNMENT HOUSE, FORT GARRY, 7th November, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch of 31st ult. complaining that no authenticated copy of the Statutes of Manitoba for the year 1878 has been forwarded to your Government, and to state that I shall see that these Statutes are sent according to law.

I have, &c.,

JOSEPH CAUCHON,
Lieutenant-Governor.

The Hon. the Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th October, 1880.

I have the honor to report upon the Statutes of Manitoba, passed in the forty-first year of Her Majesty's reign (1878), as follows:—

Cap. 1.—"An Act for granting to Her Majesty certain sums of money required for defraying certain expenses of the Civil Government of the Province of Manitoba, for the fiscal year ending on the 31st December, 1878, and for other purposes connected with the Public Service."

Cap. 2.—"An Act to amend 'The Manitoba Jurors' Act.'"

Cap. 3.—"An Act to authorize the Consolidation of the General Statutes of the Province of Manitoba."

Cap. 4.—"An Act to amend 'The Manitoba Controverted Elections Act, 1875.'"

Cap. 5.—"An Act to amend 'The Manitoba Election Act, 1875.'"

Cap. 6.—"An Act respecting the partition of, and sale of, Real Estate in the Province of Manitoba."

Cap. 7 —"An Act respecting Infants and their Estates."

Cap. 8.—"An Act respecting Debtors in close custody, other than Judgment Debtors."

Cap. 9.—"An Act further to amend the Registration of Titles (Manitoba Act), 1873."

Cap. 10.—"An Act respecting service of Process and Garnishment."

Cap. 11.—"An Act respecting Alimony."

Cap. 12.—"An Act to amend the 'Manitoba Law Stamp Act, 1875.'"

I recommend that the power of disallowance be not exercised in respect to these Acts.

Cap. 13.—"An Act to create a Fund for Educational Purposes."

This Act was objected to by the Hudson Bay Company as being an unconstitutional interference with their rights, and as in effect imposing an exceptional tax upon their lands. The Act was held by the Court of Manitoba to be unconstitutional and was repealed in the next Session of the Legislature.

No action was therefore necessary upon the Hudson Bay Company's petition.

Cap. 14.—"An Act to regulate the sale of Intoxicating Liquors and the granting of Licenses in this Province."

This Act deals with licenses for the sale of intoxicating liquors, and some of its provisions may be held to entrench upon the powers of Parliament with respect to the regulation of trade and commerce, but as provisions of a similar nature have been passed in most of the other Provinces and left to their operation, and it has not yet been determined how far the power to deal with licenses will authorize an interference with trade in intoxicating liquors, the power of disallowance should not, I think, be exercised with respect to this Act.

Cap. 15.—"An Act further to amend an Act respecting Registers of Marriages, Baptisms and Burials, and Vital Statistics in the Province of Manitoba."

Cap. 16.—"An Act to amend the amended School Act."

Cap. 17.—"An to protect Private Property in certain cases."

Cap. 18.—"An Act to amend an Act passed in the thirty-eighth year of Her Majesty's reign, intituled: 'An Act respecting separate rights of Property of Married Women.'"

Cap. 19.—"An Act to amend 36 Vic., Cap. 15, it being an Act to permit Administrators to dispose of Property in their care to better advantage."

Cap. 20.—"An Act to enable certain children of Half-breed heads of Families to convey their land.

Cap. 21.—"An Act to amend the 'Law Society Act.'"

Cap. 22.—"An Act relative to Ferries in Manitoba.

Cap. 23.—"An Act relating to the performance of Statute Labor in outer Districts."

Cap. 24.—"An Act respecting Public Roads."

Cap. 25.—"An Act to amend the Municipal Act of 1875, intituled: 'An Act respecting Municipalities.'"

Cap. 26.—"An Act to amend the Act 35 Vic., Cap. 15, intituled: 'An Act for the establishment of Agricultural and Arboricultural Societies in Manitoba.'"

Cap. 27.—"An Act to amend the Mechanics' Lien Act of 1877."

Cap. 28.—"An Act to prevent the extension of Prairie Fires."

Cap. 29.—"An Act to protect Native Cattle from Disease."

Cap. 30.—"An Act concerning Drovers and Traders."

Cap. 31.—"An Act to incorporate the Pharmaceutical Association of the Province of Manitoba."

Cap. 32.—"An Act respecting Land Surveyors and Survey of Lands in the Province of Manitoba."

Cap. 33.—"An Act further to amend the Act for the protection of Game in the Province of Manitoba."

Cap. 34.—"An Act to encourage the destroying of Wolves."

Cap. 35.—"An Act to further amend the amended Act of Incorporation of the City of Winnipeg.

Cap. 36.—"An Act to amend 40 Vic., Cap. 6, intituled: 'An Act respecting County Municipalities.'"

Cap. 37.—"An Act to amend the Act respecting the storage of Gunpowder in and near the Incorporated Towns and Villages of this Province."

Cap. 38.—"An Act to authorize the Law Society of Manitoba to admit Arthur Wellington Ross as a Barrister-at-law, and to practice as an Attorney and Solicitor in the Court of Queen's Bench in the said Province of Manitoba."

I recommend that the power of disallowance be not exercised in respect to these Acts.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 11*th October*, 1880.

On a Report dated 8th October, 1880, from the Honorable the Minister of Justice upon the Statutes, Chapters 1 to 38 of the Legislature of Manitoba, passed in the forty-first year of Her Majesty's reign (1878);

The Minister recommends that the power of disallowance be not exercised in respect to these Acts, except Chapter 13, "An Act to create a fund for Educational Purposes," which was held by the Court in Manitoba to be unconstitutional.

The Committee submit the above recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

MANITOBA, 42-43 VICTORIA, 1879.

1ST SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th October, 1880.

I have the honor to report upon the Statutes of Manitoba passed in the forty-second and forty-third years of Her Majesty's reign (1879), as follows:—

Cap. 1.—"County Courts Act."

Cap. 2.—"An Act to establish a system of Public Schools in the Province of Manitoba."

Cap. 3.—"Town Corporations, General Clauses Act."

Cap. 4.—"An Act to further amend the amended Act of Incorporation of the City of Winnipeg."

Cap. 5.—"An Act respecting fees of Justices of the Peace and their duties, and indemnity to Jurors and Criminal Witnesses."

Cap. 6.—"An Act respecting the fees of Counsel and other Officers in the administration of Justice, and in other proceedings."

Cap. 7.—"An Act to amend 40 Vic, Cap. 3, intituled: "An Act to divide the Province of Manitoba into Counties."

Cap. 8.—"An Act to amend the Registration of Titles (Manitoba Act) and the Act amending the same, being 38th Victoria, Cap. 35."

Cap. 9.—"An Act respecting the Consolidated Statutes of Manitoba."

Cap. 10.—"An Act for the protection of Game in the Province of Manitoba."

Cap. 11.—"An Act to amend the Act intituled: 'An Act to enable certain children of Half-breed heads of Families to conveys their Lands.'"

I recommend that the power of disallowance be not exercised with respect to these Acts.

Cap. 12.—"An Act respecting Grand and Petit Jurors and Juries, and to amend the Manitoba Jurors' Act."

This Act is similar to one passed by the Legislature of the Province of Ontario, which has been left to its operation, and like the Ontario Act is not to come into force until a day is named by the Lieutenant-Governor by his Proclamation. If it be decided by the Supreme Court that the power to legislate with respect to the number of Grand Jurors to find a bill or information, does not exist in the Local Legislature, this Act will, of course, not be brought into operation.

I recommend that the attention of the Lieutenant-Governor be called to these remarks.

Cap. 13.—"An Act to amend the Act respecting the qualifications of Justices of the Peace."

Cap. 14.—"An Act to amend 40 Vic., Cap. 6, intituled: 'An Act respecting County Municipalities.'"

Cap. 15.—"An Act to amend an Act respecting the Study and Practice of Law."

Cap. 16.—"An Act to enable the Law Society of Manitoba, to admit Alexander Macbeth Sutherland to the said Society as a Student-at-Law, and an Articled Clerk."

Cap. 17.—"An Act to amend 36 Vic., Cap. 13, intituled: 'An Act respecting Registers of Marriages, Baptisms, Burials and Vital Statistics and the amended Act thereto, 38 Vic., Cap. 38.'"

Cap. 18.—"An Act to provide an equitable re-distribution of the Electoral Divisions for the Legislative Assembly of the Province of Manitoba."

Cap. 19.—"An Act to amend the Act to regulate the Sale of Intoxicating Liquors and granting of Licenses in this Province."

Cap. 20.—"An Act to provide for the letting by Public Tender for the Printing required by the Provincial Government."

Cap. 21.—"An Act to provide for the holding of a Court of Assize at Portage la Prairie."

Cap. 22.—"An Act to amend 'An Act respecting Statute Labor in Municipalities.'"

Cap. 23.—"An Act for the better maintenance of the Provincial Agricultural and Industrial Society of Manitoba."

Cap. 24.—"An Act to incorporate the Historical and Scientific Society of Manitoba."

Cap. 25.—"An Act to incorporate St. John's College Ladies' School."

Cap. 26.—"An Act to incorporate 'The Community of the Sisters of the Holy Names of Jesus and Mary."

Cap. 27.—"An Act to amend the Act, intituled: 'An Act respecting Infants and their Estates.'"

Cap. 28.—" An Act to amend the Public Roads Act, 1878."
Cap. 29.—" An Act respecting Animals running at large."
Cap. 30.—" An Act respecting Infectious and Contagious Diseases of Domestic Animals."
Cap. 31.—" An Act to amend an Act respecting the indemnity to Members of the Legislature."
Cap. 32.—" An Act to amend 41 Vic., Cap. 34."
Cap. 33.—" An Act to furthur amend Cap. 37, 34 Vic."
Cap. 34.—"An Act to amend 39 Vic., Cap. 10, intituled : ' An Act concerning the opening of certain Public Roads.' "
Cap. 35.—" An Act to amend 39 Vic., Cap. 20, in reference to certain Animals going at large at certain seasons therefor."
Cap. 36.—" An Act to amend Cap. 1, 38 Vic."
Cap. 37.—" An Act for granting to Her Majesty certain sums of Money required for defraying certain Expenses of the Civil Government of the Province of Manitoba, for the fiscal year ending 31st December, 1879, and for other purposes connected with the Public Service."

I recommend that the power of disallowance be not exercised with respect to these Acts.

JAMES McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council approved by His Excellency the Governor General in Council on the* 11*th October*, 1880.

On a Report, dated 8th October, 1880, from the Hon. the Minister of Justice, upon the Statutes, Chapters 1 to 37, of the Legislature of Manitoba, passed in the forty-second and forty-third years of Her Majesty's reign (1879);

The Minister recommends that the power of disallowance be not exercised with respect to these Acts, and that the attention of the Lieutenant-Governor be called to the remarks contained in the Minister's Report with reference to Cap. 12: "An Act respecting Grand and Petit Jurors and Juries and to amend the Manitoba Jurors' Act."

The Committee submit the above recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

MANITOBA, 43 VICTORIA, 1880.

NOTE.—The Acts of 1880 were incorporated with the Consolidated Statutes of Manitoba of that year, and do not appear to have been reported upon.

MANITOBA, 44TH VICTORIA, 1881.

3RD SESSION—4TH LEGISLATURE.

Petition of Mayor and Council of Winnipeg to Governor General.

His Excellency the Right Honorable Sir JOHN DOUGLAS SUTHERLAND CAMPBELL, Marquis of Lorne, Knight of the Most Ancient and Most Noble Order of the Thistle, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Governor General of Canada, and Vice-Admiral of the same, &c., &c., &c, in Council.

The Memorial of the Mayor and Council of the City of Winnipeg respectfully sheweth:

Your Memorialists have heard with regret the rumors that efforts are being made by some interested parties to obtain from Your Excellency the disallowance of the Act of the Legislature of Manitoba incorporating the Winnipeg South-Eastern Railway Company. In view of the future prospects of this country and of the North-West, a future acknowledged to be so great that the eyes of the world are now directed hitherward, every possible facility for ingress and egress to and from our country is greatly to be desired, and any act of Your Excellency's Government tending to limit or check such facilities would delay the rapid development of our resources, would interfere in a serious measure with the settlement of our fertile plains, and would thus be damaging not only to our City and Province, but to the whole Dominion. Your Memorialists therefore cannot believe that the best interests of this City and Province will be sacrificed to benefit any one Corporation or Company, be they whom they may.

Believing, as your Memorialists do, that the Act incorporating the Winnipeg South-Eastern Railway Company is strictly within the jurisdiction of the Legislature of our Province, we would most respectfully and earnestly urge upon Your Excellency and Council that the said Act be not disallowed in the true interests of our City, of this Province, of the great North-West and of the Dominion at large.

And your Memorialists, as in duty bound, will ever pray, &c., &c.

Dated at Winnipeg, in the Province of Manitoba, this Sixteenth day of November.

E. G. CONKLIN,
Mayor.

A. M. BROWN,
City Clerk.

Report of the Hon. the Minister of Railways and Canals.

DEPARTMENT OF RAILWAYS AND CANALS, OTTAWA, 2nd November, 1881.

The undersigned has the honor to represent that at the last Session of the Legislature of the Province of Manitoba, the following Railway Acts were passed:—

1. Cap. 37, "An Act to incorporate the Winnipeg South-Eastern Railway Company."

2. Cap. 38, "An Act to incorporate the Manitoba Tramway Company."

3. Cap. 39, "An Act to incorporate the Emerson and North-Western Railway Company."

That by a letter dated the 18th ultimo, the Canadian Pacific Railway Company have pointed out the effects which the construction of these several lines will have upon the traffic which would legitimately appertain to their road; calling attention to the fact that one of the most essential of the conditions upon which the work was undertaken; and more particularly the Eastern Division of it, extending from the Thunder Bay Branch to Callander Station, was that no diversion of the traffic which the Company might reasonably be expected to carry over that division, would be permitted by the construction of Railways tending to tap the traffic of Manitoba and the North-West.

That the Chief Engineer has thereupon reported that all these several Charters conferred by the Act above cited, empower the respective Companies to run to the boundary between the Provinces of Manitoba and the State of Minnesota, a privilege which undoubtedly conflicts with the spirit of the Canadian Pacific Railway Act, Section 15, of which reads as follows :—

"For twenty years from the date hereof, no line of railway shall be authorized by the Dominion Parliament to be constructed south of the Canadian Pacific Railway from any point at or near the Canadian Pacific Railway, except such line as shall run south-west or the westward of south-west, nor to within fifteen miles of latitude 49."

The section being apparently placed in the agreement with the Company upon the consideration that it is most desirable, and altogether in the public interest, that the heavy traffic to be expected from the great North-West should pass directly to the sea-board or to Eastern Canada by the national route and over the Canadian system of railways, and that no facilities should be given which would tend to divert this traffic directly out of our own country to find its way eastward by American railways.

The Engineer reports, that if the Acts of incorporation referred to are allowed to become law, they will not only very much injure the carrying trade of Canada, but will in every way facilitate the passing of the traffic in question directly into the United States, and its transportation eastward over American roads.

In addition, the undersigned desires to state that during the Session of 1880, when the Government were carrying on the railways as a Government work, he was authorized by the Government, after the fullest discussion of this question in all its bearings, to state to the Committee of the House of Commons on Railways and Canals, that the Government could not assent to the incorporation of any line running to the American frontier in an easterly direction, it being considered essential to the interests of the Dominion that the traffic of the North-West should, as far as possible, be retained on the Canadian Pacific Railway.

That the policy of the Government met with apparent approval from all parties, and the application made for a Charter for the Emerson and Turtle Mountain Railway Company was refused.

That while such was the view taken in 1880, the importance of this policy became doubly manifest in 1881, when arrangements were completed for the construction of through lines running to the north of Lake Superior, and the same policy was adhered to last Session.

For the reasons above stated he is of opinion that the interests of Canada would be imperilled by the construction of the proposed lines of rail communication, and submits that the Minister of Justice should be invited to report whether His Excellency the Governor General should not be advised to disallow the Acts of the Legislature of the Province of Manitoba, referred to, viz. :—

1. Act 44 Vic., Cap. 37, intituled: "An Act to incorporate the Winnipeg South-Eastern Railway Company."

2. Act 45 Vic., Cap. 39, intituled: "An Act to incorporate the Manitoba Tramway Company."

3. Act 44 Vic., Cap. 39, intituled: "An Act to incorporate the Emerson and North-Western Railway Company."

Respectfully submitted.

CHARLES TUPPER,
Minister of Railways and Canals.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th January, 1882.

To His Excellency the Administrator in Council:

The undersigned has the honor to report that at the last Session of the Legislature of Manitoba the following Act (among others) was passed and assented to by the Lieutenant-Governor, on the 25th day of May, 1881, viz.: Cap. 37, "An Act to incorporate the Winnipeg South-Eastern Railway Company."

The line to be built by the Company is thus defined by the third Section of their Charter:

"3. The said Company and their servants and agents shall have full power and authority to lay out and construct, make, finish and operate a railway with single or double track and an electric telegraph along the same, such railway to commence from a point at or near the City of Winnipeg, thence running in a south-easterly direction to the boundary line between the Province of Manitoba and the State of Minnesota aforesaid; and the Company shall have power and authority to construct the different sections of the said railway in such order as they shall see fit, keeping in view the general direction as herein provided"

In the contract dated 21st October, 1880, between the Government of Canada and the Canadian Pacific Railway, which was approved and ratified by the Act of the Parliament of Canada assented to on the fifteenth day of February, 1881, the following clause is contained;

"(15.) For twenty years from the date hereof, no line of railway shall be authorized by the Dominion Parliament to be constructed south of the Canadian Pacific Railway, from any point at or near the Canadian Pacific Railway, except such line as shall run south-west or to the westward of south-west; nor to within fifteen miles of latitude 49. And on the establishment of any new Province in the North-West Territories, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period."

In the Act of the Parliament of Canada 44 Vic., (1881), Cap. 14, intituled: "An Act to provide for the extension of the boundaries of the Province of Manitoba," it is, by Sub-section 6 of Section 2, provided as follows:—"The said increased limit and territory thereby added to the Province of Manitoba shall be subject to all such provisions as may have been or shall hereafter be enacted respecting the Canadian Pacific Railway and the lands to be granted in aid thereof."

Under the powers conferred upon the South-Eastern Railway Company, their line might be built so as to run to the boundary line through part of the territory added to the Province by the Act last above mentioned.

The undersigned begs to call attention to the Order of His Excellency in Council of the 18th April, 1879, a copy of which was transmitted to the Government of Manitoba on the 23rd of that month, and receipt of which was acknowledged by the Lieutenant-Governor on the 2nd of May following; in that Order the following language occurs, viz.:

"That as respects the railway policy to be pursued in that Province, it has been decided that the line of the Canadian Pacific Railway shall pass south of Lake Manitoba, and in accordance with the suggestion of Messrs. Norquay and Royal, the

Government will oppose the granting of a charter for the present Session at least, for any railway in Manitoba other than the one recommended by them from Winnipeg south-westerly towards Rock Lake. The Government think it very desirable that all railway legislation shall originate here, and that no charter for a line exclusively within the Province of Manitoba should be granted by its Legislature without the Dominion Government first assenting thereto."

The undersigned is personally aware from the interviews with Messrs. Norquay and Royal upon the subject that these gentlemen (then members of the Manitoba Government, Norquay being then as now, Premier), on behalf of their Government agreed to the Policy of this Government as indicated by the above extract from the Order in Council of 18th April, 1879. At no time since has the Government of Manitoba, so far as the undersigned is aware, intimated that the assent of Messrs, Norquay and Royal above referred to, was not binding upon them.

The undersigned also calls attention to the provisions of Sub-section 10 of Section 92 of the British North America Act under which the Legislatures of the Provinces derive their legislative authority which is as follows:—"Local works and undertakings other than those such as are of the following classes: (*a*) Lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province. (*b*) Lines of steamships between the Province and any British or foreign country. (*c*) Such works as although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of two or more of the Provincess."

It is not necessary to express any decided opinion with respect to the authority vested in the Provincial Legislatures by this clause; but the undersigned thinks it proper to call attention to the doubt which exists as to the power of a Provincial Legislature to authorize the construction of a railway, the manifest intention of which is to connect the Province with the United States and practically to extend beyond the limits of the Province.

The undersigned begs to refer to the Report of the Minister of Railways and Canals, dated the 2nd November last, and in view of all the foregoing facts, and because the Act now under consideration conflicts with the settled policy of the Dominion, as evidenced by the clause in the contract with the Canadian Pacific Railway Company above set out, which was ratified and adopted by Parliament, the undersigned recommends that the Act passed by the Legislature of Manitoba in the year 1881, and intituled: "An Act to incorporate the Winnipeg South-Eastern Railway Company" be disallowed.

A. CAMPBELL,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Government in Council on the 12th January,* 1882.

On a Report hereto annexed, dated 2nd November, 1881, from the Minister of Railways and Canals, submitting for the reasons therein set forth that the Minister of Justice should be invited to report whether His Excellency the Governor General should not be advised to disallow the following Railway Acts passed by the Legislature of the Province of Manitoba at the last Session, viz.:—

1. Cap. 37, "An Act to incorporate the Winnipeg South-Eastern Railway Company."

2. Cap. 38, "An Act to incorporate the Manitoba Tramway Company."

3. Cap. 39, "An Act to incorporate the Emerson and North-Western Railway Company."

The Minister of Justice, in a Report, dated 4th January, 1882, hereunto annexed, recommends for the reasons therein stated, that the Act passed by the Legislature of

Manitoba in the year 1881, Chaptered 37, and intituled: "An Act to incorporate the Winnipeg South-Eastern Railway Company," be disallowed.

The Committee advise that the Act be disallowed accordingly, and that a copy of the Report of the Minister of Justice be forwarded to the Government of Manitoba for its information.

Certified.

J. O. COTÉ,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 12th January, 1882.

Present:

HIS EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the Legislative Assembly of that Province, did, on the 25th day of May, 1881, pass the undermentioned Act which has been transmitted, intituled as follows, viz.: "An Act to incorporate the Winnipeg South-Eastern Railway Company." And whereas, the said Act has been laid before the Administrator of the Government in Council, together with a Report from the Minister of Railways and Canals, and the Minister of Justice, recommending that the said Act should be disallowed;

His Excellency the Administrator of the Government has, thereupon, this day, been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act and the same is disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

J. O. COTÉ,
Clerk Privy Council.

I, Sir Patrick Leonard Macdougall, Administrator of the Government of Canada, do hereby certify that the undermentioned Act, passed by the Legislature of Manitoba, on the 25th day of May, A.D. 1881, intituled: "An Act to incorporate the Winnipeg South-Eastern Railway Company," was received by me on the 22nd day of November, A. D. 1881.

Given under my hand and seal this 12th day of January, 1882.

P. L. MACDOUGALL,
General, Administrator.

Secretary of State to Lieutenant-Governor Manitoba.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 17th January, 1882.

SIR,—I have the honor to transmit to you herewith a certified copy of an Order of His Excellency the Administrator of the Government in Council, disallowing an Act of the Legislature of the Province of Manitoba, passed on the 25th day of May,

1881, intituled: "An Act to incorporate the Winnipeg South-Eastern Railway Company," with the certificate of His Excellency, as to its receipt duly endorsed thereon.

I also enclose, for the information of your Government, a copy of a Report of the Honorable the Minister of Justice, in reference to the said Act.

J. A. MOUSSEAU,
Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Deputy Minister of Justice to Under Secretary of State.

DEPARTMENT OF JUSTICE, 12th November, 1881.

I am desired by the Minister of Justice, to request that the Lieutenant-Governor of Manitoba may be asked to transmit without delay an authentic copy of the Acts passed at the last Session of the Manitoba Legislature, pursuant to Sections 56 and 90 of the British North America Act.

Z. A. LASH,
Deputy Minister of Justice.

The Under Secretary of State.

Reply of the Under Secretary of State.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 23rd November, 1881.

SIR,—With reference to your Memorandum of the 12th instant, I have the honor to forward to you a copy of the Statutes of the last Session of the Legislature of the Province of Manitoba, with a certificate of the date of the receipt thereof at this Department duly endorsed thereon.

I have, &c.,

EDOUARD J. LANGEVIN,
Under Secretary of State.

The Deputy of the Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 31st October, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report:—

That the contract, dated 21st October, 1880, made between the Government of Canada and the Canadian Pacific Railway Company, contained the following clause:

"15. For twenty years from the date hereof, no line of railway shall be authorized by the Dominion Parliament to be constructed south of the Canadian Pacific Railway, from any point at or near the Canadian Pacific Railway, except such line as shall run south-west or to to the westward of south-west, nor to within 15 miles of latitude 49, and in the establishment of any new Province in the North-West Territories, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period."

This contract was approved and ratified by Parliament, by an Act assented to on the 15th day of February, 1881, and the action of the Government in regard to the direction and limits of railway construction in the Territories of the Dominion became part of the Legislation of Parliament, and of the settled policy of the country.

By an Act of Parliament, 44 Vic., Chap. 14, intituled: "An Act to provide for the extension of the Boundaries of the Province of Manitoba," and by an Act of the Legislature of Manitoba, 44 Vic., Chap. 1, intituled: "An Act for the extension of the Boundaries of the Province of Manitoba," it is provided as follows:—

"(1.) The said increased limit and territory thereby added to the Province of Manitoba shall be subject to all such provisions as may have been or shall hereafter be enacted respecting the Canadian Pacific Railway, and the lands to be granted in aid thereof."

The policy of the Government, thus confirmed by Parliament, and acquiesced in by Legislation in the Province of Manitoba, is intended to prevent the diversion of the traffic of the North-West Territories to the railway system of the United States, and to endeavor by all means possible to secure it to Canadian railways.

Two Acts in addition to one already disallowed were passed by the Legislature of Manitoba, in the Session of 1881, and one in the Session of 1882, which are in conflict with the settled policy above referred to.

By 44 Vic., Chap. 38 (1881), Manitoba, intituled: "An Act to incorporate the Manitoba Tramway Company," power is given to the corporators to construct and operate cheap iron or wooden tramways along all or any of the public highways of the Province, having first secured the consent of the Municipality, within which the said public highway is situate.

By Section 15, Sub-section 4, power is given to make, complete, alter and keep in repair, the tramway, with one or more sets of rails or tracks, to be worked by the force and power of steam, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them, the corporators having substantially the power to build and operate a railway.

By 44 Vic (1881), Chap. 39, Manitoba, intituled: "An Act to incorporate the Emerson and North-Western Railway Company," the corporators are empowered to construct a railway from a point on the west side of the Red River, opposite the Town of Emerson, in the Province of Manitoba, to Mountain City or Nelsonville, in the said Province, and thence north-west to a point on the western boundary of the said Province, and also a branch line from Mountain City or Nelsonville, aforesaid, to the said boundary.

Emerson is situated directly on or very near to the boundary of the United States, and Mountain City is situated within fifteen miles of the 49th parallel of latitude. This Company, by its Charter, could not only construct a line—crossing the Canadian Pacific Railway and running from it in a south-easterly direction to a point practically on the boundary, between Manitoba and the United States, but could also construct a line west from Mountain City, and wholly within fifteen miles of the 49th parallel.

By 45 Vic., Chap. 30 (Manitoba), intituled: "An Act to encourage the building of Railways in Manitoba," power is given within the Legislative Authority of the Province, for the incorporation, by Letters Patent, of any number of persons, not less than five, for the purpose of constructing, maintaining and operating railways for public use in the conveyance of persons and property in the Province of Manitoba.

The Act last mentioned was passed subsequent to the extension of the limits of Manitoba, but no provision is made in the Act to give effect to the terms and conditions upon which the boundaries of that Province were enlarged, that is, there is nothing in it to prevent the corporators from exercising their powers within the added territory. This Act is, therefore, not only open to the objections pointed out in regard to the two Acts passed during the Session of 1881, but is capable of being used to contravene the terms in regard to the Canadian Pacific Railway, upon which the boundaries of the Province of Manitoba were enlarged.

In order that the Act should conform to the Legislation of Parliament in regard to the Canadian Pacific Railway, provision should have been made that no Company thereby incorporated should be authorized to construct a line of railway south of the Canadian Pacific Railway, from any point at or near that railway, unless the line ran south-west or to the westward of south-west, and terminated at a point distant at least fifteen miles from the 49th parallel of latitude.

The undersigned, for the reasons above stated, humbly recommends that the said Acts, namely: 44th Vic. (1881), Chap. 38, "An Act to incorporate the Manitoba Tramway Company," 44th Vic. (1881), Chap. 39, "An Act to incorporate the Emerson and North-Western Railway Company," 45th Vic. (1882), Chap. 30, "An Act to encourage the building of Railways in Manitoba," be disallowed.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Honor the Deputy of His Excellency the Governor General in Council on the 3rd November,* 1882.

The Committee of the Privy Council have had under consideration a Report from the Minister of Justice, in which he recommends that the power of disallowance vested in Your Excellency in Council under Section 90 of the British North America Act, 1867, be exercised in regard to the following Acts of the Legislature of the Province of Manitoba, namely:—

44 Vic., Chap. 38 (1881), intituled: "An Act to incorporate the Manitoba Tram way Company."

44 Vic., Chap. 39 (1881), intituled: "An Act to incorporate the Emerson and 'North-Western Railway Company."

45 Vic., Chap. 30 (1882), intituled: "An Act to encourage the building of 'Railways in Manitoba."

The Committee learn that authentic copies of these Acts were received by the Secretary of State as follows: 44 Vic., Chap. 38 and 39, 1881, on the 28th day of February, 1882, and 45 Vic., Chap. 30, 1882, on the 3rd day of October, 1882.

The Committee, whilst concurring in the Report of the Minister of Justice, and humbly advising Your Excellency to disallow each and every of the said Acts, desire to record the expression of their constant anxiety that the action of the Legislatures of the several Provinces of the Dominion should be interfered with under the power of disallowance reserved to Your Excellency in Council by the British North America Act, 1867, as seldom as possible; but when, as in the case of these Acts, the declared policy of Parliament, adopted for the common weal, is set at naught, and Local Legislation enacted leading indirectly, and directly too, to its frustration, the Committee of the Privy Council conceive that they are compelled by their duty to Parliament humbly to advise Your Excellency to use the power in question.

They further advise that a copy of this Minute, when approved, and of the Report of the Minister of Justice, be transmitted by the Secretary of State to the Lieutenant-Governor of Manitoba, for the information of his Government.

JOHN J. McGEE.
Clerk Privy Council.

Proclamation disallowing the Acts above mentioned.

GOVERNMENT HOUSE, OTTAWA, FRIDAY, the 3rd day of November, 1882.

Present:

THE HONORABLE SIR WILLIAM JOHNSTON RITCHIE, KNIGHT, THE DEPUTY OF HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of Manitoba, with the Legislative Assembly of that Province, did, on the 25th day of May, 1881, pass the following Acts, viz.: 44 Vic. Chap. 38, 1881, intituled: "An Act to incorporate the Manitoba Tramway Company;" 44 Vic., Chap. 39, 1881, intituled: "An Act to incorporate the Emerson and North-Western Railway Company;" and, on the 30th May, 188?, did pass the Act 45 Vic., Chap. 30, 1882, intituled: "An Act to encourage the building of Railways in Manitoba," which Acts have been transmitted;

And whereas the said Acts have been laid before the Deputy of the Governor General in Council, together with a Report from the Minister of Justice, recommending that the said Acts should be disallowed;

The Honorable the Deputy of His Excellency the Governor General has thereupon this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Acts, and the same are disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,

Clerk of the Queen's Privy Council, Canada.

I, Sir William Johnston Ritchie, Knight, Deputy of the Governor General of Canada, do hereby certify that the Acts passed by the Legislature of the Province of Manitoba on the 25th day of May, 1881, viz: 44 Vic., Chap. 38, "An Act to incorporate the Manitoba Tramway Company," and 44 Vic., Chap. 39, "An Act to incorporate the Emerson and North-Western Railway Company," were received by His Excellency the Governor-General, as follows:—A copy, without certificate of authenticity, on the 22nd day of November, A.D. 1881, and a copy, with such certificate, on the 28th day of February, A.D. 1882, and that the Act passed by the Legislature of the Province of Manitoba, the 30th day of May, 1882, 45 Vic., Chap. 30, "An Act to encourage the building of Railways in Manitoba," was received by His Excellency the Governor General on the 3rd day of October, A.D. 1882.

Given under my hand and seal this 3rd day of November, A.D. 1882.

W. J. RITCHIE,

Deputy Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 31st January, 1883.

To His Excellency the Governor General in Council:

The undersigned having had under consideration the Acts of the Legislature of the Province of Manitoba, passed in the year 1881, begs leave to report as follows:—

Chap. 37. An Act to incorporate the Winnipeg, South-Eastern Railway Company, was disallowed by Order in Council of the 12th January, 1882, and Chap. 38,

intituled : " An Act to incorporate the Manitoba Tramway Company," and Chap. 39, intituled : " An Act to incorporate the Emerson and North-Western Railway Company," were disallowed by Order in Council of the 3rd November, 1882.

Chap. 2. An Act to bring into force and operation the Consolidated Statutes of Manitoba.

Chap. 7. An Act to protect Guide Posts along certain Roads in this Province.

Chap. 16. An Act respecting the Equity side of the Court of Queen's Bench.

Chap. 28. An Act for dividing the Province of Manitoba into Judicial Districts and establishing Courts therein.

Chap. 33. An Act to incorporate the Southern Manitoba Loan Company, and Chap. 34, for the Incorporation of the Winnipeg Suspension Bridge Company, are reserved for a separate Report.

In regard to the remaining Acts of the Session, the Chapters and Titles of which are hereinafter enumerated, the undersigned recommends that they be left to their operation.

Chap. 1. An Act to provide for the extension of the Boundaries of the Province of Manitoba.

Chap. 3. An Act respecting Municipalities.

Chap. 4. An Act to establish a system of Public Schools in the Province of Manitoba.

Chap. 5. An Act respecting the Action of Ejectment.

Chap. 6. An Act to extend the Laws of Manitoba, and to provide for the Government of those parts of the Territory to be added to the Province by the extension of its Boundaries.

Chap. 8. An Act respecting the Registration of Births, Marriages and Deaths.

Chap. 9. An Act to sub-divide the Municipality of Assiniboia.

Chap. 10. An Act respecting the acceptance of certain Incorporated Companies as sureties.

Chap. 11. An Act to amend certain of the Acts forming parts of the Consolidated Statutes of Manitoba.

Chap. 12. An Act to divide the new added Territory to the Province of Manitoba into Electoral Divisions, and to provide for representation in the Legislative Assembly.

Chap. 13. An Act to divide the added Territory of the Province into Municipalities.

Chap. 14. An Act to divide the Province of Manitoba into Counties.

Chap. 15. An Act respecting the changing of the names of Incorporated Companies.

Chap. 17. An Act to provide for the erection of a new Court House and Gaol in the City of Winnipeg.

Chap. 18. An Act respecting Veterinary Surgeons.

Chap. 19. An Act respecting Half-breed Lands and quieting certain Titles thereto.

Chap. 20. An Act to establish the limits of the Protestant School Districts of Morris.

Chap. 21. An Act to encourage the maintenance and the introduction and establishment of Manufactories in the Province.

Chap. 22. An Act for the protection of Public Fairs or Exhibitions held by Agricultural, Horticultural and Industrial Societies.

Chap. 23. An Act respecting compensation to the Families of persons killed by Accidents.

Chap. 24. An Act respecting the Registration of Debentures.

Chap. 25. An Act respecting Conveyances.

Chap. 26. An Act for the better maintenance of the Provincial Agricultural and Industrial Society of Manitoba.

Chap. 27. An Act respecting Railways.

Chap. 29. An Act respecting the profession of Land Surveyors in the Province of Manitoba.

Chap. 30. An Act to further amend the amended Act of Incorporation of the City of Winnipeg.

Chap. 31. An Act to amend the Act passed this present Session, intituled : "An Act to amend certain of the Acts forming part of the Consolidated Statutes of Manitoba."

Chap. 32. An Act to amend the Act incorporating the College of Manitoba.

Chap. 35. An Act to amend 43 Vic., Chap. 36, intituled : " An Act to incorporate the Manitoba Electric and Gas Light Company."

Chap. 36. An Act to incorporate the Selkirk Club of Winnipeg.

Chap. 40. An Act to incorporate the Selkirk and Rockwood Junction Railway Company.

Chap. 41. An Act to amend 43 Vic., Chap. 35, intituled : " An Act to incorporate the Westbourne and North-Western Railway Company," and to legalize the By-laws of the Corporation of the Town of Portage la Prairie, granting aid to the said Company by the issue of Debentures.

Chap. 12. An Act for granting certain sums of Money required for defraying certain expenses of the Civil Government of the Province of Manitoba, for the fiscal year ending 31st December, 1881, and for other purposes connected with the Public Service.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March*, 1883.

The Committee of the Privy Council have had before them a Report, herewith attached, dated 31st January, 1883, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Manitoba, passed in the year 1881, the 44th year of Her Majesty's reign

On the recommendation of the Minister of Justice, the Committee advise that certain of the said Acts, the Chapters and Titles of which are therein enumerated, be left to their operation; Chapters 37, 38, and 39 having been disallowed by His Excellency the Governor General in Council, and Chapters 2, 7, 16, 28, 33 and 34 having been reserved for a separate Report of the Minister of Justice.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 31st January, 1883.

To His Excellency the Governor General in Council :

The undersigned begs leave to report upon certain Acts passed by the Legislature of the Province of Manitoba in the Session of 1881, reserved for a separate Report :—

(1.) By Chapter 2, the Consolidated Statutes of Manitoba are brought into force and operation.

On referring to Reports on the Statutes included in this volume, it will be discovered that many provisions which were objected to have been re-enacted.

The following instances are given :—

(*a*) 34 Vic., Chap. 9, Sec. 2, giving the Police Magistrates all the powers possessed by two or more J. P's, is re-enacted by Chapter 7, Sec. 17, Con. Stats.; should be limited to matters within authority of the Legislature.

(*b*) 37 Vic. 1873, Chap. 43, Sec. 2, Sub-sec. 1. The word "Parliamentary" is objected to, and also the provisions about jurors on criminal trials. Re-enacted by Chap. 55, Sec. 1, Sub-sec. 1, Con. Stats.: (The whole Act is objectionable as Legislation in regard to Aliens.)

(*c*) Chap. 18, Sec. 53, constitutes certain offences misdemeanors.

Act repealed, but this Section re-enacted by Chap. 60, Con. Stats., Sec. 50.

(*d*) 38 Vic. 1874, Chap. 15. Repeal was advised, as it might conflict with 31 Vic., Chap. 48 (Canada), under which Foreign Insurance Companies have been licensed to do business in any part of Canada. Re-enacted by Chap. 30 (Sec. 2), Con. Stats., Manitoba. (It is objectionable also in requiring license from Companies incorporated by Parliament.)

"THE ELECTION ACT." (*e*) Chap. 3, Con. Stats., amends the word "Parliamentary," but Secs. 32, 185, 205, 206 and 235, objected to, as trenching on Criminal Law, appear to be re-enacted by Chap. 3, of the Con. Stats.

ADMINISTRATION OF JUSTICE. (*f*) Chap. 5. It was thought that Sec. 58 to 60 should be repealed, but they are re-enacted by Chap. 37, Con. Stats., Secs. 95, 96 and 97.

QUALIFICATIONS OF J. P.'s. (*g*) Chap. 9, Sec. 16, deals with Perjury. Re-enacted by Chap. 7, Con. Stats., Sec. 32.

BUILDING SOCIETIES. (*h*) Chap. 21. The provisions respecting interest, insolvency and criminal acts were objected to, but appear to be re-enacted by Chap. 9 of the Con. Stats., excepting Sec. 18, repealed.

(*i*) Chap. 22. The power of the Lieutenant-Governor to remove an insane criminal from gaol to an asylum was objected to, but is re-enacted by Con. Stats., Chap. 58, Sec. 26.

(*j*) Chap. 35. To amend the Registry Act. Section 1 objected to as interfering with the devolution of the title of lands before the issue of patents, is re-enacted by Chap. 60, Sec. 40, Con. Stats.

JURORS AND JURIES. (*k*) 39 Vic., 1876, Chap. 3. It was thought that the provisions as to the selection of French and English speaking jurors would require confirmatory legislation by Canada, but no suggestion was made.

This Act is Chap. 36 of the Con. Stats.

FIRE COMMISSIONERS. (*l*) Chap. 5, Sec. 9, objected to as trenching on criminal law, but re-enacted by Chap. 7, Consolidated Statutes, Sec. 94.

(*m*) Chap. 8. Incorporation of Mutual Fire Insurance Companies.

Sections 70, 71 and 72 were objected to, but are re-enacted. (*See* Chap. 9, Consolidated Statutes, Secs. 70, 71 and 72.)

RESPECTING PUBLIC WORKS. (*n*) Chap. 9, Sec. 31, objected to as a possible interference with Dominion authority. Re-enacted by Chap. 11, Sec. 31, Consolidated Statutes.

(*o*) 40 Vic., 1877, Chap. 30. Cemeteries—Section 28 deals with malicious injuries to property. Re-enacted by Chap. 9, Sec. 92, Consolidated Statutes.

2. Chap. 7, intituled: "An Act to protect Guide Posts along certain Roads in this Province" trenches upon the subject of Criminal Law. (*See* 32 and 33 Vic., Chap. 22, Sub-secs. 59 and 60.)

3. Chap. 16, intituled: "An Act respecting the Equity side of the Court of Queen's Bench," makes provision for the appintment of an Officer to be called the Referee in Chambers, and the Queen's Bench is authorized to make rules conferring on him large powers ordinarily exercised by a Judge. The power of the Legislature to give to an Officer of the Court judicial powers is extremely doubtful.

4. Secs. 73, 75 and 77, of Chap. 28, intituled: "An Act for dividing the Province of Manitoba into Judicial Districts and establishing Courts therein," deal with the empanelling of juries in criminal cases, and are not, it is submitted, within the authority of the Legislature.

5. Secs. 2 and 15, of Chap. 33, intituled: "An Act to incorporate the Southern Manitoba Loan Company," deal with the subject of interest.

6. By Chap. 34, intituled : " For the incorporation of the Winnipeg Suspension Bridge Company," a Company is incorporated with power to build a bridge over the Assiniboine River, between Winnipeg and St. Boniface West. Section 14 provides that the bridge shall not be commenced until the plans and site are approved by the Governor General in Council.

This is entirely in accordance with the Act of Parliament since passed, 45 Vic., Chap. 37, and the Act can be left to its operation.

The other Acts mentioned in this Report, although objectionable in the particulars pointed out, do not, in the opinion of the undersigned, call for the exercise of the power of disallowance. They may, without injury to the public interests, be left for the consideration of the Courts. He, therefore, recommends that they be left to their operation ; and, further, that in case these observations are approved, they be communicated to the Lieutenant-Governor of the Province, for the information of his Government, and for such action as they may think proper.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March*, 1883.

The Committee of the Privy Council have had before them a Report herewith attached, dated 31st January, 1883, from the Minister of Justice, with respect to certain Acts passed by the Legislature of the Province of Manitoba in the Session of 1881, the 44th year of Her Majesty's reign, reserved for a separate Report.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts mentioned therein, and they further advise that the attention of the Lieutenant-Governor of the Province be directed to the observations in the Report of the Minister of Justice, for the information of his Government, and for such action as they should think proper.

JOHN J. McGEE,
Clerk Privy Council.

MANITOBA, 45TH VICTORIA, 1882.

4TH SESSION—4TH LEGISLATURE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th February, 1883.

To His Excellency the Governor General in Council:

The undersigned having had under consideration the petition of certain members of the Association of Provincial Land Surveyors in the Province of Manitoba praying for the disallowance of the second Clause of the fifth Section of 45 Victoria, Chapter 54, intituled: "An Act to amend 44 Victoria, Cap 29, intituled: 'An Act respecting the profession of Land Surveyors in the Province of Manitoba;'" and the communication of the President of the Provincial Land Surveyors' Association of that Province to Your Excellency on the same subject dated 6th September 1882, begs leave to report:—

By 44 Victoria, Cap. 39, being "The Land Surveyors' Act, 1881," certain persons holding commissions as Land Surveyors were constituted an Association of Land Surveyors.

Among other things provision is made for the admission of articled pupils after a course of study and an examination similar to that prescribed by Section 95 of the "Dominion Lands Act, 1879."

It is material in this connection to note that by Section 91, of the Act last-mentioned, it is provided that: "Any person who, subsequently to the fourteenth day of April, one thousand eight hundred and seventy-two, shall have been duly qualified by certificate, diploma or commission to survey lands in any Province of the Dominion, in which, in order to be so qualified, a course of study, including the subjects prescribed by Section 95 is required by the law of such Province, shall be entitled to obtain, without being subjected to any examination other than as regards the system of survey of Dominion Lands, a commission as Dominion Land Surveyor; provided that it shall rest with the Board of Examiners to decide whether the qualifications required of a Surveyor of Crown Lands in such Province are sufficiently similar to those set forth in the said Section ninety-five of this Act, to entitle him, under the foregoing provisions, to such commission; and provides further, that it must be shown that such Province has reciprocated the privilege hereby granted, by granting to Dominion Land Surveyors, on their application, and without subjecting them to an examination, except as regards a knowledge of the Survey Laws of such Province, diplomas, certificates or commissions, as the case may be, as Surveyors of Lands within such Province.

"Land Surveyors holding diplomas, certificates or commissions for Provinces of the Dominion, in which the qualifications required by law for Surveyors, are not similar to those prescribed by this Act, must undergo examination by the Board, and satisfactorily pass the same in order to obtain commissions as Dominion Land Surveyors."

By 45 Vic., Cap. 54, Sec. 5, Sub-sec. 2, the clause to which the petitioners take objection, those Land Surveyors who previously to the transfer to Canada were duly authorized by the Council of Assiniboia, and those apprentices who had served their full term of three years with a regularly authorized Surveyor from any of the

Provinces of the Dominion previous to the passing of any Act of the Legislature of Manitoba respecting Surveys and Surveyors, shall, on application to the Secretary of the Association, and on proof of the above facts and payment of the fee required by the rules of the Association, be entitled to a commission to practice as a Provincial Land Surveyor in Manitoba.

The petitioners complain that this clause not being in the Bill as it was drafted and accepted by the Government of Manitoba, was inserted during its passage through the Assembly without the Committee of the Association being consulted and against their views.

"They allege that should the said clause become law, it would have the effect of lowering the standard of the said profession, by allowing ignorant and unqualified persons to become members of the said Association, and to practice as Provincial Land Surveyors thereby causing great injury and inconvenience to the public, and would have the effect of defeating the object for which the said association was formed, and would further, in all probability, prevent reciprocal action on the part of the Dominion Board, they requiring similar qualifications for themselves from members of another Association."

"All Land Surveyors duly authorized by the Council of Assiniboia previous to the transfer of this country to Canada have been and are admitted members of the said Association."

Taking the case as stated the undersigned is of opinion that no sufficient reason has been shown for the disallowance of the Act. The clause of itself cannot, of course, be disallowed.

The objections urged are for the Legislature, it having power to pass the Act in question.

To that body the petitioners should go for their remedy.

It is recommended that the power of disallowance be not exercised in regard to this Act, and also, if this Report is approved, the petitioners be informed of the action taken.

It is further recommended that a copy of the petition be forwarded to the Lieutenant-Governor of Manitoba for the consideration of his Government and for such action as they may deem proper.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th March,* 1883.

On a Report dated 14th February, 1883, from the Minister of Justice, submitting that having had under consideration the petition of certain members of the Association of Provincial Land Surveyors in the Province of Manitoba, praying for the disallowance of the second Clause of the fifth Section of 45 Victoria, Chapter 54, intituled: "An Act to amend 44 Victoria, Chap. 29, intituled: "An Act respecting the pr fession of Land Surveyors in the Province of Manitoba," and the communication of the President of the Provincial Land Surveyors' Association of that Province, to Your Excellency on the same subject, dated 6th September, 1882:

The Minister states that by 44 Vic., Chap. 29, being "The Land Surveyors Act, 1881," certain persons holding commissions as Land Surveyors were constituted an Association of Land Surveyors, and, among other things, provision is made for the admission of articled pupils after a course of study, and an examination similar to that prescribed by Section 95 of the "Dominion Lands Act, 1879."

It is material in this connection to note that by Section 91 of the Act last mentioned it is provided that:—

"Any person who subsequently to the fourteenth day of April, one thousand eight hundred and seventy-two, shall have been duly qualified by certificate, diploma

or commission to survey lands in any Province of the Dominion, in which, in order to be so qualified, a course of study, including the subjects prescribed by Section 95, is required by the law of such Province, shall be entitled to obtain, without being subjected to any examination other than as regards the system of survey of Dominion lands, a commission as Dominion Land Surveyor; Provided, that it shall rest with the Board of Examiners to decide whether the qualifications required of a Surveyor of Crown Lands in such Province are sufficiently similar to those set forth in the said Section ninety-five of this Act to entitle him under the foregoing provisions to such commission; and provided further, that it must be shown that such Province has reciprocated the privilege hereby granted, by granting to Dominion Land Surveyors on their application, and without subjecting them to any examination, except as regards a knowledge of the survey laws of such Province, diplomas, certificates or commissions as the case may be, as Surveyors of Lands within such Province.

"Land Surveyors holding diplomas, certificates or commissions for Provinces of the Dominion, in which the qualifications required by law for Surveyors are not similar to those prescribed by this Act, must undergo examination by the Board, and satisfactorily pass the same, in order to obtain commissions as Dominion Land Surveyors."

The Minister further states that by 45 Vic., Chap. 54, Sec. 5, Sub-section 2, the clause to which the petitioners take objection, those Land Surveyors who, previously to the transfer to Canada, were duly authorized by the Council of Assiniboia, and those apprentices who had served their full term of three years with a regularly authorized Surveyor from any of the Provinces of the Dominion previous to the passing of any Act of the Legislature of Manitoba, respecting surveys and surveyors, shall, on application to the Secretary of the Association, and on proof of the above facts and payment of the fee required by the rules of the Association, be entitled to a commission to practice as a Provincial Land Surveyor in Manitoba.

The petitioners complain that this clause not being in the Bill as it was drafted and accepted by the Government of Manitoba, was inserted during its passage through the Assembly without the Committee of the Association being consulted and against their views.

They allege that "should the said clause become law, it would have the effect of lowering the said profession by allowing ignorant and unqualified persons to become members of the said Association and to practice as Provincial Land Surveyors, thereby causing great injury and inconvenience to the public, and would have the effect of defeating the object for which the said Association was formed, and would further, in all probability, prevent reciprocal action on the part of the Dominion Board, they requiring similar qualifications for themselves from members of another Association.

"All Land Surveyors duly authorized by the Council of Assiniboia previous to the transfer of this country to Canada, have been and are admitted members of the said Associations."

The Minister is of opinion, taking the case as stated, that no sufficient reason has been shown for the disallowance of the Act—the clause of itself cannot, of course, be disallowed.

That the objections urged are for the Legislature, it having power to pass to Act in question, and therefore to that body the petitioners should go for their remedy.

The Minister recommends that the power of disallowance be not exercised in regard to this Act, and that the petitioners be informed of the action taken; furthermore, the Minister recommends that a copy of a petition be forwarded to the Lieutenant-Governor of Manitoba for the consideration of his Government, and for such action as they may deem proper.

The Committee concur in the recommendations above set forth, and they submit the same for Your Excellency's approval.

JOHN J. McGEE,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th June, 1883.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon the Statutes passed by the Legislature of the Province of Manitoba in the year 1882 :--

Chap. 30. An Act to encourage the building of Railways in Manitoba was considered in October last, and, by Order in Council of the 3rd day of November, 1882, was disallowed.

Chap. 54. An Act to amend 44th Vic. Chap. 29, intituled: "An Act respecting the profession of Land Surveyors in the Province of Manitoba," was considered in February last on the petition of certain members of the Association of Provincial Land Surveyors in the Province of Manitoba. By Order in Council bearing date the 6th day of March last, it was left to its own operation.

The remaining Chapters and Titles of the Acts of that Session are as follows:—

Chap. 1. An Act to amend Chapter 9 of the Consolidated Statutes of Manitoba, Division eight, entitled Legal Profession.

Chap. 2. An Act respecting Wills.

Chap. 3. An Act to provide for the alteration or opening up of Roads and the establishment of Ferries in the Province of Manitoba.

Chap. 4. An Act to enable the Municipality of Portage la Prairie to sell Lands which are in arrears for Taxes.

Chap. 5. An Act respecting the real and personal estate vested in Officers of the Court of Queen's Bench on its Equity side.

Chap. 6. An Act to encourage the planting of Trees along the great Highways and Road Allowances within the Province.

Chap. 7. An Act to amend 44 Vic., Chap. 11 : An Act to amend Chap. 3 of the Consolidated Statutes of Manitoba.

Chap. 8. An Act to establish Normal School Departments in connection with Public Schools.

Chap. 9. An Act to provide for the holding of Elections in the newly added Territory.

Chap. 10. An Act to amend 44 Vic., Chap. 24, intituled: "An Act respecting the Registration of Debentures."

Chap. 11. An Act to amend 44 Vic., Chap. 4, intituled: "An Act to establish a system of Public Schools in the Province of Manitoba."

Chap. 12. An Act to prevent the Spreading of Wild Mustard or Canada Thistles.

Chap. 13. An Act to amend the Land Registration Act of Manitoba and amendments thereof.

Chap. 14. An Act for the reorganization of the Department of Agriculture and Statistics.

Chap. 15. An Act to amend and confirm the Charter of the South Winnipeg Bridge Company.

Chap. 16. An Act to amend 44 Vic., Chap. 3, intituled: "An Act respecting Municipalities."

Chap. 17. An Act to amend "The Manitoba Town Corporations Act."

Chap. 18. An Act respecting purchases of Mortgages.

Chap. 19. An Act to amend Chapter 12 of the Consolidated Statutes of Manitoba, intituled: "An Act respecting Highways and Roads."

Chap. 20. An Act to amend Chapter 18 of the Consolidated Statutes of Manitoba, intituled: "The Game Act."

Chap. 21. An Act to divide the Municipality of Cypress.

Chap. 22. An Act to divide the Municipality of Norfolk.

Chap. 23. An Act to divide the Municipality of Turtle Mountain.

Chap. 24. An Act to amend 44 Vic., Chapter 3, intituled: "An Act respecting Municipalities."

Chap. 25. An Act to enable Municipalities to perform drainage work in certain cases.

Chap. 26. An Act to amend Section 169, Chapter 9, Division 5, of the Consolidated Statutes.

Chap. 27. An Act to amend Chapter 5 of the Consolidated Statutes of Manitoba.

Chap. 28. An Act to amend Chapter 18 of the Consolidated Statutes of Manitoba.

Chap. 29. An Act to amend Chapter 5 of the Consolidated Statutes of Manitoba, intituled: "An Act respecting the Legislature of Manitoba."

Chap. 31. An Act to amend Chapter 3 of the Consolidated Statutes of Manitoba, and 44 Vic., Chapter 11, Section 4.

Chap. 32. An Act to divide the Municipality of Youville.

Chap. 33. An Act respecting the jurisdiction of County Court Judges.

Chap. 34. An Act to extend the Limits and Boundaries of the Town of Emerson.

Chap. 35. An Act to incorporate the City of Brandon.

Chap. 36. Charter of the City of Winnipeg, Manitoba, consolidated from "The Act of Incorporation of the City of Winnipeg."

Chap. 37. An Act to incorporate the Winnipeg Street Railway Company.

Chap. 38. An Act to amend 44 Vic., Chap. 3, "An Act to amend Chapter 3 of the Consolidated Statutes of Manitoba."

Chap. 39. An Act to amend the Act to incorporate The Winnipeg Waterworks Company.

Chap. 40. An Act to amend and confirm the Charter of the Brandon Bridge Company.

Chap. 41. An Act to amend 44 Vic., Chap. 41, and to legalize By-law No. 13, passed by the Town of Portage la Prairie, on the 15th day of April, 1881, to raise for the use of the said Town, $40,000, and By-law No. 37 of the Corporation of the Town of Portage la Prairie, granting $100,000 in aid of Portage, Westbourne and North-Western Railway.

Chap. 42. An Act to confirm certain securities belonging to the Freehold Loan and Savings Company.

Chap. 43. An Act to legalize By-law No. 49 of the Municipality of Emerson, in the Province of Manitoba, intituled: "A By-law to raise $50,000 by debentures for permanent drainage improvements in the Municipality of Emerson, in the Province of Manitoba.

Chap. 44. An Act to incorporate the Red River Bridge Company.

Chap. 45. An Act to incorporate the East Brandon Bridge Company.

Chap. 46. An Act to amend the Acts incorporating the Bishop of the Church of England Diocese of Rupert's Land, and certain other Corporations connected with the said Church, and for certain other purposes.

Chap. 47. An Act to vest certain lands belonging to the Congregation of the Presbyterian Church in the Parish of Kildonan, in Trustees, for the benefit of the congregation.

Chap. 48. An Act to incorporate the Portage la Prairie Street Railway Company.

Chap. 49. An Act relating to the Canada Landed Company.

Chap. 50. An Act to give effect to two certain Indentures, namely: First, an Indenture bearing date the 29th day of March, A.D. 1880, and made between William Fraser, John Sutherland, John Henderson and Jane Sinklater. Second, an Indenture bearing date the 30th day of July, A.D. 1881, and made between the said William Fraser, John Sutherland, John Henderson and Alexander Potson, and to vest the lands thereby intended to be granted in the present grantees thereof.

Chap. 51. An Act respecting the Trust and Loan Company of Canada.

Chap. 52. An Act to confer certain powers on the Bell Telephone Company.

Chap. 53. An Act to legalize By-laws Nos. 29 and 31 of the Corporation of the Municipality of the Town of Emerson.

Chap. 55. An Act for granting certain sums of money required for defraying certain expenses of the Civil Government of the Province of Manitoba, for the fiscal

year ending 31st December, 1882, and for other purposes connected with the public service.

The undersigned recommends that the said Acts be left to their operation, but in so doing deems it advisable to call attention to certain provisions of some of the Chapters.

(1) The titles to Chaps. 16 and 24 are the same.

The use of the same titles to different Chapters should be avoided.

Chap. 35. An Act to incorporate the City of Brandon.

Chap. 36. Charter of the City of Winnipeg, Manitoba, consolidated from "The Act of Incorporation of the City of Winnipeg."

Chapter 36 relates to the Charter of the City of Winnipeg, and is consolidated from the Act of Incorporation of that city and the Acts in amendment thereof.

These Acts, Chaps. 35 and 36, are much alike in their terms, and, with one or two exceptions, the observations in regard to one will apply to the other.

The 3rd Sub-section of the 8th Section of each Act makes provision for trying and punishing a person who assaults or beats any voter.

This is an offence against the Criminal Law, and the sections should be amended accordingly.

The 61st Section of each Act impose a penalty of $1,000 upon the city clerk, or other person wilfully altering or falsifying any certified voters' list or copy thereof.

This clause trenches upon the Criminal Law as to forgery, and should be amended so as to refer only to cases where the alteration is not wilful, or if this is not desired, should be repealed.

By the 78th Section of Chapter 35, it is provided that debentures shall be valid and recoverable to the full amount, notwithstanding their negotiation by the corporation at a rate less than par, or at a rate of interest greater than 6 per cent. per annum.

By Section 81 it is provided that in case of default being made in payment of the taxes of any person, the same shall bear interest at the rate of 10 per cent. per annum until paid, and all arrears of taxes shall bear interest at that rate until paid.

By the 96th Section the Council is given power to redeem any lands taken in execution and sold by the Sheriff, within five years from sale, by paying the purchaser of the lands the amount paid by him, together with the interest at the rate of 8 per cent. per annum.

Similar provisions are contained in the 78th, 81st and 96th Sections of Chapter 36.

The undersigned has before had occasion to express the opinion that where Local Legislatures enact provisions relating to interest, it is advisable that this be so done as to recognize the Legislative authority of Parliament in this respect. No objection is taken to the Legislature giving a Corporation power to pay any legal rate of interest that may be agreed upon, or any fixed rate within the maximum at the time allowed by law.

These Sections go much further, the 81st Section being especially open to objection.

The 3rd Sub-section of the 97th Section, giving the City Council power to make By-laws for providing for the inspection of gas meters, and the 3, 4, 5, 8, 10, 12, 16, 17 and 21st Sub-sections of the 101st Section giving power to make By-laws on matters touching, more or less closely, the subject of Criminal Law, are also open to objection.

Similar provisions are found in the corresponding sections of Chapter 36.

The same kind of Legislation is, however, to be found in similar Acts of other Provinces, and have been allowed to go into operation without doing more than calling attention to them, as any By-laws made under these provisions will probably come before the Courts for decision, and as great confusion will arise if the Acts be disallowed, the undersigned thinks it better that they be left to their operation and to the judgments of the Courts.

By Chapter 35, Section 101, Sub-section 2, and by Chapter 36, Section 101, Sub-section 2, and Sections 105 and 106, provisions are made in regard to the sale of intoxicating liquors in excess of the powers of the Legislature.

Since these Acts were passed the decision of the Privy Council in Russell *vs.* The Queen has been given, and Parliament has legislated on the subject. As, however, these provisions were enacted anterior to the action taken by Parliament, and will become inoperative with other Provincial Legislation on the same subject whenever they conflict with the laws, the undersigned is not compelled to recommend the disallowance of these Acts.

If these observations are approved, the undersigned recommends that the substance thereof be communicated to the Lieutenant-Governor of Manitoba for the consideration of his Government, and for such action as they think advisable.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th June,* 1883.

The Committee of the Privy Council have had before them a Report, hereunto annexed, dated 18th June, 1883, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Manitoba, in the year 1882, being the 45th year of Her Majesty's reign.

The Committee, on the recommendation of the Minister of Justice, advise that the powers of disallowance be not exercised with respect to any of the said Acts, being Chaptered one (1) to fifty-five (55) inclusive, save as regards Chapter 30, which was disallowed, and Chapter 54, upon which the Minister of Justice made a separate Report, but was left to its operation.

The Committee further advise that a Despatch be forwarded by the Secretary of State to the Lieutenant-Governor of Manitoba, directing the attention of his Government to the observations in the Report of the Minister of Justice on several of the said Acts, and for such action as they think advisable.

JOHN J. McGEE,

Clerk Privy Council.

MANITOBA, 46-47 VICTORIA, 1883.

1ST SESSION—5TH LEGISLATURE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 4th February, 1884.

To His Excellency the Governor General in Council :

The undersigned having had under consideration the Acts of the Legislature of the Province of Manitoba passed in the year 1883, respectfully recommends that the

Acts mentioned in the Schedule hereto be left to their operation. The remaining Acts have been reserved for a separate Report.

(Signed) A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Cap. 2. An Act to amend the Manitoba Town Corporations' Act.
Cap. 3. An Act to permit Municipal Corporations to consolidate their Debts.
Cap. 4. An Act respecting the taxation of, and suits against, Railway Companies.
Cap. 5. An Act to amend Cap. 18 of the Consolidated Statutes of Manitoba.
Cap. 6. An Act to amend Cap. 60 of the Consolidated Statutes, intituled: "The Land Registration Act of Manitoba."
Cap. 7. An Act to provide for the taking of an Oath of Office and the giving of security by Officials in certain cases.
Cap. 8. An Act respecting the Internal Economy of the Legislative Assembly and other matters.
Cap. 9. An Act to amend Chapter 12, 44 Vic., of the Statutes of Manitoba, intituled: "An Act to divide the new added Territory to the Province of Manitoba into Electoral Divisions and to provide for representation in the Legislative Assembly."
Cap. 10. An Act to explain and amend Cap. 11 of 44 Victoria (3rd Session).
Cap. 11. An Act to provide for the better Auditing of the Public Accounts.
Cap. 12. An Act respecting the Acquisition and Sale or Disposal of the Public Lands of the Province.
Cap. 13. An Act to amend Chapters 4 and 5 of the Consolidated Statutes of Manitoba.
Cap. 15. An Act respecting Lunatics, &c.
Cap. 16. An Act respecting Aid to Charitable Institutions.
Cap. 17. An Act to amend Acts respecting Marriage Licenses.
Cap. 18. An Act respecting the Solemnization of Marriage.
Cap. 20. An Act respecting Appeals, Convictions and Orders made by Justices of the Peace.
Cap. 21. An Act to amend the County Courts Act.
Cap. 22. An Act respecting the Investment of Moneys paid in the Court of Queen's Bench (Equity Side) and the Security therefor.
Cap. 23. An Act respecting the Court of Queen's Bench.
Cap. 24. An Act to amend Cap. 37 of the Consolidated Statutes of Manitoba, intituled: "An Act respecting the Administration of Justice."
Cap. 25. An Act to amend the Law of Real Property.
Cap. 26. An Act respecting the Limitation of Suits relating to Real Property, and the Time of Prescription in certain cases.
Cap. 27. An Act respecting Estates Tail.
Cap. 28. An Act respecting Estoppels in certain cases.
Cap. 29. An Act to explain certain Portions of the Half-breed Lands Act.
Cap. 30. An Act respecting Executions and Attachments.
Cap. 31. An Act to secure the Payment of Builders and Workmen.
Cap. 32. An Act to amend the law relating to Mechanics Liens.
Cap. 33. An Act respecting Masters and Servant.
Cap. 34. An Act to amend the Chattel Mortgage Act.
Cap. 35. An Act respecting Grist Mills and Millers.
Cap. 36. An Act to amend the Statute Chaptered 50, of the Consolidated Statutes of Manitoba, intituled: "An Act to provide for the holding of land by Trustees on behalf of Churches or Religious Bodies."

Cap. 37. An Act respecting Notaries Public.

Cap. 39. An Act to amend the Act passed this present Session of the Legislature of the Province of Manitoba, intituled : " An Act to authorize Corporations and other Institutions incorporated out of this Province to transact business therein."

Cap. 40. An Act to amend the Act respecting the Incorporation of Companies and their powers, being Cap. 9 of the Consolidated Statutes of Manitoba.

Cap. 41. An Act to amend " The Manitoba Joint Stock Companies Incorporation Act."

Cap. 42. An Act to amend " The Manitoba Cemeteries Incorporating Act."

Cap. 43. An to amend Chapter 1 of 45 Vic., intituled : " An Act to amend Chapter 9 of the Consolidated Statutes of Manitoba, Division 8, intituled : ' Legal Profession.' "

Cap. 44. An Act to consolidate and amend the Law to secure to Wives and Children the benefit of Assurances.

Cap. 45. An Act respecting Lodgers and Boarders.

Cap. 46. An Act to amend " The Manitoba School Act."

Cap. 48. An Act to amend " The Interpretation Act of Manitoba."

Cap. 49. An Act to repeal, amend and explain certain Acts and parts of Acts of the Consolidated and other Statutes of the Province.

Cap. 50. An Act to amend and consolidate the Act respecting the Association of Provincial Land Surveyors.

Cap. 57. An Act for granting certain sums of money required for defraying certain expenses of the Civil Government of the Province of Manitoba for the fiscal year ending 31st December, 1883, and for others purposes connected with the public service.

Cap. 52. An Act to amend an Act passed during the present Session of the Legislature for granting certain sums of money for defraying certain expenses of the Civil Government of the Province of Manitoba for the fiscal year ending 31st December, 1883, and for others purposes connected with the public service.

Cap. 53. An Act to incorporate the Manitoba Dental Association.

Cap. 60. An Act to confirm and amend the Charter incorporating the Town of Morris, to legalize certain By-laws, and to incorporate the Town of Morris.

Cap. 61. An Act to amend 45 Vic., Cap. 35, intituled : " An Act to incorporate the City of Brandon."

Cap. 62. An Act to legalize By-law No. 41 of the Municipality of Brandon.

Cap. 63. An Act to confirm the Legality of Debentures issued under By-law No. 49 of the Municipality of Emerson, in the Province of Manitoba, as confirmed by 45 Vic., Cap. 43.

Cap. 64. An Act to amend the several Acts of Incorporation of the City of Winnipeg, and to legalize certain By-laws of the City of Winnipeg and the Debentures issued thereunder.

Cap. 65. An Act to legalize By-law No. 43 of the Municipality of Minedosa.

Cap. 66. An Act relating to certain By-laws of the Town of Portage la Prairie and of the Municipality of Westbourne.

Cap. 67. An Act to legalize By-law No. 11 of the Corporation of the Town of West Lynne, intituled : " A By-law to raise by way of Debentures, sixty thousand dollars, to be expended in the erection of a Railway and Traffic Bridge across the Red River at West Lynne."

Cap. 68. An Act to legalize By-Law No. 8 of the Town of Selkirk, in the Province of Manitoba.

Cap. 69. An Act to legalize a certain By-law of the Town of Gladstone.

Cap. 70. An Act respecting By-laws No. 7 and No. 5 of the Municipality of Morris.

Cap. 71. An Act to legalize By-law No. 51 of the Town of Portage la Prairie, in the Province of Manitoba, intituled : " A By-law to raise the sum of one hundred thousand dollars by debentures for permanent improvements in the Town of Portage la Prairie.

Cap. 72. An Act to legalize By-law No. 8 of the Town of Nelson.

Cap. 73. An Act to enable the Corporation of the Town of Selkirk, in the Province of Manitoba, to assume certain liabilities relative to the North-West Lumbering Company (Limited).

Cap. 74. An Act to legalize By-law No. 33 of the Municipality of St. Andrews, in the Province of Manitoba.

Cap. 75. An Act to legalize By-law No. 65 of the Corporation of the Municipality of Emerson, intituled : " A By-law to raise twenty-five thousand dollars by debentures for permanent Drainage Works and Road Grading in the Municipality of Emerson, in the Province of Manitoba."

Cap. 76. An Act to legalize By-law No. 41 of the Corporation of the Town of Emerson, and to authorize and empower said Corporation to apply to and accept from the Governor General in Council a charter or license to build and operate a Railway and Traffic Bridge across the Red River.

Cap. 77. An Act to legalize By-law No. 2 of the Board of School Trustees of the Protestant School District of the City of Winnipeg, in the County of Selkirk, intituled : "A By-law to raise, by way of Loan, the sum of one hundred thousand dollars ($100,000) by Debentures for School Purposes.

Cap. 79. An Act relating to the Corporation of the Municipality and Town of Saint Boniface.

Cap. 82. An Act to incorporate " The Red River Valley Colonization and Loan Company (Limited)."

Cap. 84. An Act to incorporate " The Winnipeg Water Power Company."

Cap. 85. An Act to incorporate Fort Garry Lodge No. 1 of the Independent Order of Good Templars.

Cap. 86. An Act to incorporate " The Keewatin Mining Company."

Cap. 87. An Act to incorporate " The Lake Winnipeg Mining Company (Limited).

Cap. 88. An Act to incorporate the Brandon General Hospital.

Cap. 89. An Act to enable " The Dufferin Park Association " to sell certain lands in the City of Winnipeg.

Cap. 90. An Act to amend and consolidate the Acts relating to the Manitoba Club.

Cap. 91. An Act respecting the Winnipeg General Hospital.

Cap. 92. An Act to incorporate the Loyal Orange Association of Manitoba.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 18th February*, 1884.

The Committee of the Privy Council, on the recommendation of the Minister of Justice, advise that the Acts of the Legislature of the Province of Manitoba, passed in the year 1883, mentioned in the Schedule hereto annexed, be left to their operation, the Minister of Justice having deemed it expedient to reserve the remainder for a separate Report.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

Messrs. Bradley & Snow to Minister of Justice.

OTTAWA, 19th September, 1883.

SIR,—We have the honor to enclose you herewith a Petition asking for the disallowance of part of an Act passed at the last Session of the Legislature of the Pro-

vince of Manitoba, held in the spring of the present year, which united the late Towns of Emerson and West Lynne, under an Act of said Legislature, as the Corporation of the City of Emerson, which Act is numbered in the Statute Books of said Province, 46th Victoria, Chapter 80.

We trust that the said Petition may be considered by His Excellency the Governor General in Council and that the prayer of the Petitioners may be granted.

We have, &c.,

BRADLEY & SNOW,

Solicitors for Petitioners.

The Honorable
The Minister of Justice.

Petition of Residents of Emerson to Governor General.

To *His Excellency the Governor General in Council:*

The Petition of the undersigned Resident Farmers and owners of Real Estate now within the Corporation of the City of Emerson, in the Province of Manitoba,—

Humbly Sheweth:

1. That in the year of Our Lord one thousand eight hundred and eighty, the late Town of Emerson was incorporated under the provisions of a public Act of the Province of Manitoba, known as the "Manitoba Town Corporations General Clauses Act," and, when so incorporated, included within the said corporation limits, Red River Lots numbers two, four, six, eight, ten, twelve, fourteen and sixteen, situate on the east side of Red River, in the Parish of Ste. Agathe, and extending from the International Boundary line on the south to the northern boundary of said Lot number sixteen.

2. In the year of Our Lord one thousand eight hundred and eighty-two, the late Town of West Lynne was incorporated under the provisions of the said Act, and when so incorporated, included within the corporation limits, Red River Lots numbers one, three, five, seven, nine, eleven, thirteen, fifteen, seventeen, nineteen, twenty-one, twenty-three, twenty-five, twenty-seven, twenty-nine, thirty-one and thirty-three, situate on the west side of Red River, in the said Parish of Ste. Agathe, and extending from the International Boundary aforesaid, on the south, to the northern boundary of said River Lot number thirty-three.

3. Your Petitioners are farmers owning, residing upon and cultivating the following Red River lots respectively, in the said Parish of Ste. Agathe, to wit.:—the said William Grant, lots numbers thirty-eight and forty; the said Robert Carran, lots numbers thirty-four and thirty-five; John Collins, part of lot number thirty-six; James Mathewson, part of said lot number thirty-six; Maria Gosselin, lot number thirty-seven, and Reverend John Scott, lot number thirty-nine.

4. Your Petitioners settled upon said lands many years ago, and have cultivated and improved the same, and have expended many years' labor and much money thereon, and made their homes thereon, and are now, and have been for a long time, the owners thereof respectively.

5. The said lands so owned and resided upon by your petitioners were until recently situate in and formed part of the Municipality of Emerson on the east, and the Municipality of Montcalm on the west side of said river, and as such were assessed and taxed as farm lands within such municipalities respectively.

6. The business portion of the said Town of Emerson did not at the time of its Incorporation and does not at the present time extend northwards further than said River Lot number eight, and the business portion of the said Town of West Lynne did not at the time of its Incorporation, and does not at the present time, extend further than said River Lot number one.

7. In the year of Our Lord one thousand eight hundred and eighty-two the limits of the said Corporation of the Town of Emerson were extended northward to include Red River Lots numbers eighteen, twenty, twenty-two and twenty-four, which lots during the excitement in real estate in the year one thousand eight hundred and eighty-two were sub-divided and laid out in town lots, but have not been since used or occupied as such, the same still remaining to all intents and purposes farm lands, and being still used and employed as such.

8. Lots numbers nine, eleven, thirteen, fifteen, seventeen, nineteen, twenty-one, twenty-three, twenty-five, twenty-seven, twenty-nine, thirty-one and thirty-three included within the limits of the said Town of West Lynne, have never been used or occupied as town property, but have always been and still are used, occupied and employed as farm lands.

9. Your Petitioners lands above described are situate at distances from the business portion of the said late Towns of Emerson and West Lynne varying from one and a-half to two and a-half miles, communication being had with said towns by means of the old travelled roads within the municipalities aforesaid.

10. At the last Session of the Legislature of this Province, held in the spring of the present year, the said late Towns of West Lynne and Emerson were united under an Act of said Legislature as the Corporation of the City of Emerson, which Act provides for the Government of said city and is a private Act incorporating the said City and numbered in the Statute Book of the said Province, Chapter 80 of 46 Victoria, of the Legislature of this Province.

11. The said Act provided for the extension of the Boundaries of the old Towns of West Lynne and Emerson as above described, northward, so as to include within the limits of the new City of Emerson your Petitioners' lands above described, and by said Act your Petitioner's said lands were brought, and are now included, within the limits of the said Corporation of the City of Emerson.

12. The said Act, in so far as the same extended the limits of the said old Towns of Emerson and West Lynne to include your Petitioners' said lands within the limits of the said City of Emerson, was applied for and obtained without any knowledge or consent on the part of your Petitioners, or any of them, no public notice having been given of any intention to so extend the limits of the old Towns, and your Petitioners were not aware, until long after the close of the Session of the Legislation, that their said lands had been brought and included within the limits of the said City, your Petitioners having only learned of the intention on the part of the said Towns to become united under a City Charter, and no opportunity was afforded your Petitioners of objecting to, or protesting against said action, in bringing their said lands within the said City's limits.

13. The said Towns of Emerson and West Lynne, when separate, contracted large debts by the issue of Debentures and otherwise, and the said Act of Incorporation of the City of Emerson provides for the issue of Debentures to cover such indebtedness and for other purposes to the extent of $386,000, and such Debentures are immediately about to be issued.

14. Your Petitioners' said lands have not been assessed during the present year, and, therefore, the issue and disposal of the said Debentures during this year will not proceed upon the credit of your Petitioners lands as part of the assessed property of the said City, but the said lands will hereafter be assessed and not taxed to pay the said debt.

15. Heretofore your Petitioners' lands have been assessed as farm lands at values extending from $6 to $11 per acre, and the rate imposed against the same has never exceeded, in the same Municipalities, seven mills upon the dollar of such values.

16. The present rate of taxation in the new City of Emerson, as fixed, is seventeen mills upon the dollar, and your Petitioners verily believe that the same will not decrease but will increase next year.

17. Taking as a basis the assessed value of River Lot number twenty, being one of the lots farthest northward within the limits of the old Town of Emerson, which was last year assessed at four hundred dollars per acre, your Petitioners verily believe

that their lands will not be assessed hereafter as part of the said City of Emerson at less than two hundred dollars per acre, and upon such an assessment, with a rate of seventeen mills upon the dollar, the yearly tax would amount to a greater sum upon each of your Petitioners said lots, than your Petitioners can earn by farming the same annually, and a much greater sum than the lands could possibly be rented for.

18. Your Petitioners respectfully declare that if their said lands are so assessed and taxed, which there is every reason to believe will be the case, it will be impossible for them to remain thereon and pay the taxes and provide for their families, and in such case they will be compelled to abandon their farms and homes and seek homes elsewhere.

19. Your Petitioners' lands on the east side of the river are still liable, and must continue liable for the payment of a debt contracted by the said Municipality of Emerson of $75,000, while the said lands were within and part of the said municipality.

20. Your Petitioners' lands cannot, by reason of any outlay of Public Moneys in the said City, be enhanced in value, but on the contrary the taxation therefor will depreciate the same for farming purposes.

21. Your Petitioners have no means of relief other than the present, as before the next Session of the Legislature of this Province a new assessment will have been made, including the said lands.

22. Your Petitioners submit that the passage of the Land Act, in so far as the same relates to your Petitioners' lands, was unfair, unjust and inequitable towards your Petitioners; and having been passed, as aforesaid, without public notice or any knowledge or notice to or consent of your Petitioners; and for the reasons above detailed, that your Petitioners are in great danger of losing their said lands, the said Act, in so far as the same relates thereto, should be disallowed under the powers conferred upon Your Excellency in Council.

Your Petitioners respectfully submit herewith the accompanying map or plan, showing thereon the lands of your Petitioners and the distances from the business portions of the City of Emerson, aforesaid.

Your Petitioners, therefore, pray that the said Act Chapter 80 of 46th Victoria, of the Statutes of the Province of Manitoba, may, in so far as the same relates in any way to River Lots Nos. thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty, the property of your Petitioners, be disallowed by virtue of the powers above referred to.

And your Petitioners, as in duty bound, will ever pray.

ROBERT CURRAN,
WM. GRANT,
JOHN COLLINS,

Her
MARIA X GOSSELIN,
mark.
JAMES MATHEWSON,
JOHN SCOTT.

Attorney-General Miller to Minister of Justice.

WINNIPEG, 6th February, 1884.

SIR,—I have the honor to request that, upon submission to you of the Acts of the Provincial Legislature of Manitoba, 46 and 47 Victoria, for your report, you may be pleased to direct the attention of His Excellency the Governor General to certain provisions of Chapter 80 thereof, which appear to be unconstitutional, and beyond the jurisdiction of our Legislature, namely: Sub-sections one, nine and fourteen of Section 126 and Section 127 of the said Chapter 80.

The Sections above referred to, undoubtedly repeal, in so far as the City of Emerson is concerned, Section thirty of Chapter four of the Statutes of this Province, passed in the 44th year of Her Majesty's reign, and are inconsistent with the principle of separate taxation of the different denominations for school purposes, as provided for by the Manitoba Act and the Imperial Act.

As I humbly submit that His Excellency in virtue of the authority in him vested in such cases may, in his discretion, disallow the said Act, Chaptered 80 of the Statutes of Manitoba in whole or in part, it is respectfully suggested that, in each case His Excellency may be pleased to determine that the disallowance of the said Act is proper or expedient, in so far as the above mentioned Sub-sections one, nine and fourteen of of said Section 126 and Section 127 are concerned, the question may be relegated to the Executive of this Province before such disallowance may be made, to the end that the Legislature of this Province may be afforded an opportunity of repealing any unconstitutional provisions of said Act; and make such other constitutional amendments or alterations that may be advised.

The object in bringing these facts especially under your notice is that it would be advisable to have the amendments and alterations made to said Act, in such a manner as would not affect vested rights, which have been acquired by third parties, under or in virtue of any of the provisions of the Act above referred to.

I have, &c.,

JAMES A. MILLER,
Attorney-General.

The Honorable
The Minister of Justice.

(*Telegram.*)

Deputy Minister of Justice to Attorney-General Miller.

OTTAWA, 9th April, 1884.

Curran, Grant, Collins, Gosselin, Matthewson and Scott sent petition complaining of injury by Emerson Act, Chap. 80 last Session. They say farm lands made part of Town without their knowledge and subject to debt and increased taxation. Has your attention been called to matter? and if so, do you propose any legislation in amendment? Please answer.

GEO. W. BURBIDGE,
Deputy Minister of Justice.

Hon. J. A. MILLER,
Attorney-General, Winnipeg.

(*Telegram.*)

Attorney-General Miller to Deputy Minister of Justice.

WINNIPEG, 10th April, 1884.

Yes; similar petition presented to our Legislature. Private Bills Committee report favorably on it. Their lands will be withdrawn from City.

(Signed) J. A. MILLER,
Attorney-General.

Under Secretary of State to Lieutenant-Governor Aikins.

OTTAWA, 12th April, 1884.

SIR,—I have the honor to transmit to you herewith, for the consideration of your Government, a copy of a letter from Messrs. Bradley & Snow, of this City, Barristers at Law, covering a petition to the Governor General in Council, from Robert Curran and others, residents of the City of Emerson, in the Province of Manitoba, praying for the disallowance of part of an Act passed at the last Session of the Legislature of Manitoba, which Act provides for the union of the late Towns of West Lynne and Emerson, under one Corporation, to be called the Corporation of the City of Emerson, and is numbered in the Statute Book of the Province, Chap. 80, of 46th Victoria.

I have, &c.,

G. POWELL,
Under Secretary of State.

His Honor
The Lieutenant-Governor of Manitoba.

Lieutenant-Governor Aikins to Secretary of State.

GOVERNMENT HOUSE, WINNIPEG, 16th April, 1884.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 12th instant, transmitting a copy of a letter from Messrs. Bradley & Snow, of the City of Ottawa, Barristers, covering a petition to His Excellency the Governor General, from Robert Curran and other residents of the City of Emerson, praying for the disallowance of part of an Act passed at the last Session of the Legislature of Manitoba, and to inform you that the same will be brought to the notice of my Government.

I have, &c.,

J. C. AIKINS,
Lieutenant-Governor.

Honorable J. A. CHAPLEAU,
Secretary of State, Ottawa.

Deputy Minister of Justice to Attorney-General Miller.

DEPARTMENT OF JUSTICE, OTTAWA, 6th May, 1884.

SIR,—Referring to my telegram of the 9th April, and your Report of 10th April, with respect to Chapter 80, of the Acts of Manitoba, of the Session of 1883, intituled: "An Act to incorporate the two Towns of Emerson and West Lynne into one Municipal Corporation under the name of the City of Emerson," would you have the kindness to send me at an early date, any Act that has been passed amending the Act in question.

I have, &c.,

GEO. W. BURBIDGE,
Deputy Minister of Justice.

The Hon. Attorney-General MILLER,
Winnipeg.

Deputy Attorney-General to Deputy Minister of Justice.

WINNIPEG, 14th May, 1884.

SIR,—In reply to your letter of the 6th May, instant, referring to the Attorney-General's telegram of the 9th April, and Report of the 10th, respecting Chapter 80 of the Statutes of Manitoba, 46th and 47th Victoria, and requesting to be supplied with a copy of the Act passed in the last Session of the Legislature of this Province, amending the same, I have the honor herewith to enclose a copy of the Act, certified to by the Clerk of the Legislative Assembly.

I have, &c.,

L. M. COUTLÉE,
Deputy Attorney-General.

GEO. W. BURBIDGE, Esq.,
Deputy Minister of Justice, Ottawa.

NOTE.—Amendments made in 1884. See Chapter 77.

MANITOBA, 47TH VICTORIA, 1884.

2ND SESSION—5TH LEGISLATURE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th August, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report with respect to the Acts passed by the Legislature of the Province of Manitoba held in the year 1884 (47 Victoria) of which Chapters 1 to 54, both inclusive, were received by the Secretary of State on the 29th day of August, 1884, and the remaining Acts Chapters 55 to 79, having been received on the 28th day of March 1885;

Having carefully considered the Acts, the Chapters and Titles of which are given in the annexed Schedule, the undersigned respectfully recommends that they be left to their operation. The other Acts of the Session the undersigned will make the subject of special Reports.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

SCHEDULE *to Report dated 25th August, 1885, respecting the Acts of the Province of Manitoba, passed in the Second Session, Fifth Legislature, 47 Victoria, 1884.*

PUBLIC GENERAL ACTS.

Chapter 1, Part 1. An Act for granting certain sums of Money required for defraying certain expenses of the Civil Government of the Province, for the year ending thirty-first December, one thousand eight hundred and eighty-four, and for other purposes connected with the Public Service.

Part 2. An Act to amend an Act passed during the present Session of the Legislature for granting certain sums of Money required for defraying certain expenses of the Civil Government of the Province, for the year ending thirty-first December, one thousand eight hundred and eighty-four, and for other purposes connected with the Public Service.

Chapter 2. An Act respecting the Territory in dispute between this Province and the Province of Ontario.

Chapter 3. An Act to define the meaning and intention of certain clauses of "The Municipalities' Act, 1883," and "The Judicial Districts' Act, 1883," and to make provisions for the proper and effectual working of the said Acts, and to amend the same.

Chapter 4. An Act to amend "The Administration of Justice Act, 1883."

Chapter 5. An Act to correct a clerical error in "The Act respecting Lunatics."

Chapter 6. An Act to amend Chapter 6 of the Statutes of Manitoba, 46 and 47 Vic., 1883.

Chapter 7. An Act respecting Affidavits or Declarations required by any Statute of Manitoba.

Chapter 8. An Act concerning Decrees on the Equity side of the Court of Queen's Bench, Manitoba.

Chapter 9. An Act to amend Section One of "The Charity Aid Act, 1883."

Chapter 10. An Act to amend "The Agriculture, Statistics and Health Act, 1883," and to make further provisions in respect to the Department of Agriculture, Statistics and Health.

Chapter 12. An Act to amend the "Judicial Districts' Act, 1883."

Chapter 13. An Act to amend Sections 36, 106, 109, 112, 113, 114, 116, 118, 119, 140 and 147 of Chapter 19 of the Statutes of Manitoba, 46 and 47 Vic., and to make further provisions in regard to Public Health.

Chapter 14. An Act respecting "The Mechanics' Liens Act" and amendments thereto.

Chapter 15. An Act respecting Keepers of Livery, Boarding and Sale Stables.

Chapter 16. An Act to amend Chapter 37 of the Consolidated Statutes of Manitoba, intituled: "An Act respecting the Administration of Justice."

Chapter 17. An Act to amend Chapter 37 of the Consolidated Statutes of Manitoba.

Chapter 18. An Act to abolish Law Society Stamps.

Chapter 19. An Act to amend Chapter 30 of 46 and 47 Vic., 1883, "An Act respecting Executions and Attachments."

Chapter 20. An Act to amend and correct certain Acts and parts of Acts therein mentioned.

Chapter 21. An Act to amend the "Act respecting the Court of Queen's Bench."

Chapter 22. An Act to amend the Acts relating to County Courts and to establish a Board of County Judges.

Chapter 23. An Act for Quieting Titles to Real Estate.

Chapter 24. An Act to amend Chapter 42 of the Consolidated Statutes of Manitoba, being "An Act respecting Half-Breed Lands."

Chapter 25. An Act to vest Securities held for Half-Breed Infants in the Treasurer of this Province.

Chapter 27. An Act respecting Distress for Rent and Interest upon Mortgages.

Chapter 28. An Act to regulate the costs of Distress for Rent and Extra-Judicial Seizures.

Chapter 29. An Act to amend the "Act respecting Short Forms of Indentures."

Chapter 30. An Act concerning Receipt Notes, Hire-Receipts and Orders for Chattels.

Chapter 31. An Act to amend the Act passed at the present Session of the Legislature, intituled: "An Act concerning Receipt-Notes and Hire Receipts."

Chapter 34. An Act to amend Division 1 of Chapter 19 of the Consolidated Statutes of Manitoba, being "The Manitoba Mutual Fire Insurance Companies' Act."

Chapter 35. An Act to amend the "Manitoba Cemeteries' Incorporation Act."

Chapter 36. An Act to amend the "Act to permit Municipal Corporations to Consolidate their Debts."

Chapter 37. An Act to amend the "Manitoba School Act," and the Acts amending the same.

Chapter 38. An Act to provide for the better Auditing of the Public Accounts.

Chapter 39. An Act to make further provisions for the Prevention of Corrupt Practices at Elections.

Chapter 40. An Act to amend Chap. 3 of the Consolidated Statutes of Manitoba, intituled: "An Act respecting the Legislative Assembly, and the representation of the people therein."

Chapter 41. An Act to define Government House Expenditure.

Chapter 42. An Act concerning Public Buildings.

Chapter 43. An Act for better ensuring the efficiency of the Civil Service of Manitoba, by providing for the Superannuation of persons employed therein in certain cases.

Chapter 44. An Act to amend the "Manitoba Medical Act."

Chapter 45. An Act to amend an "Act respecting Aliens."

Chapter 46. An Act respecting the Brandon Court House and Jail Debentures.

Chapter 47. An Act to amend Sections 30, 43, 45 and 97 of "The Agriculture, Statistics and Health Act, 1883."

Chapter 48. An Act to amend the Acts respecting Marriage Licenses and the Solemnization of Marriages.

Chapter 49. An Act to amend Chap. 31 of the Statutes of Manitoba, 47 Victoria.

Chapter 50. An Act to amend "The Manitoba Judicial Districts' Acts."

Chapter 51. An Act to amend the "Manitoba Municipal Act, 1884."

Chapter 52. An Act respecting Appeals from County Courts.

Chapter 53. An Act to amend an Act passed this present Session of the Legislature of Manitoba, intituled: "An Act to amend and correct certain Acts and parts of Acts therein mentioned."

Chapter 54. An Act to amend "The Manitoba School Act" and the "Manitoba School Amendments Act, 1884."

LOCAL AND PRIVATE ACTS.

Chapter 55. An Act to amend Chapter 40 of the Statutes of Manitoba, 34 Vic.

Chapter 56. An Act to amend the Acts incorporating "The Bishop of Rupert's Land."

Chapter 57. An Act to amend "The Winnipeg General Hospital Act, 1883."

Chapter 58. An Act to make certain provisions respecting lands deeded by one William Gaddy for Agricultural Society purposes at the Town of Portage la Prairie.

Chapter 59. An Act to incorporate "The Christian Women's Union of Winnipeg."

Chapter 60. An Act to enable the Municipalities of Kildonan and Assiniboia to sell certain lands for taxes.

Chapter 61. An Act to incorporate the Grand Lodge of Manitoba Ancient, Free and Accepted Masons.

Chapter 62. An Act to incorporate the Manitoba Medical College.

Chapter 63. An Act to incorporate "The British North American Fire Insurance Company of Manitoba."

Chapter 64. An Act to quiet the title of the Great North-West and Manitoba Land Company (Limited) to certain lands.

Chapter 65. An Act respecting the Union of certain Methodist Churches therein named.

Chapter 74. An Act to legalize By-Law No. 34 of the Corporation of the Town of Gladstone for a loan of $5,000 by the issue of debentures.

Chapter 75. An Act to legalize By-Law No. 4 of the Municipality of Youville, intituled: "A By-Law to raise $15,000 for permanent improvements in the Municipality of Youville.

Chapter 76. An Act to legalize By-Law No. 5 of the Town of Nepawa, authorizing the issue of Debentures to the extent of sixteen thousand dollars ($16,000).

Chapter 77. An Act to amend the "Act to incorporate the two Towns of Emerson and West Lynne into one Municipal Corporation under the name of the City of Emerson."

Chapter 79. An Act to incorporate the Manitoba and North-West Farmer's Co-operative and Protective Union.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th August*, 1885.

The Committee of the Privy Council have had before them a Report, dated 24th August, 1885, from the Minister of Justice with respect to the Acts passed by the Legislative Assembly of the Province of Manitoba, in the Session held in the year 1884 (47th Victoria) and numbered from 1 to 79 both inclusive.

The Committee advise that the power of disallowance be not exercised with respect to the said Acts, save and except Chapters 11, 26, 32, 33, 66 to 73 inclusive and 78, which will form the subject of special Reports by the Minister of Justice, and they further advise that a Despatch, based on this Minute, if approved, be forwarded to the Lieutenant-Governor, calling his attention to the observations of the Minister of Justice on several of the said Acts as above mentioned.

(Signed) JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th August, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon Chapters 11, 32, 33, and 78 of the Acts passed by the Legislature of the Province of Manitoba in the Session held in the year 1884 (47th Victoria.)

1. Chapter 11, intituled: "An Act to amend and revive the Acts relating to Municipalities."

In reporting upon Acts of a similar character to this, the undersigned has had occasion frequently to observe that some of the powers given to Municipal Councils appear, if the language used is construed in its natural sense, to be in excess of those which a Provincial Legislature may confer. For instance, by Section 111 of this Act the Councils are given, among other things, power to make By-laws for (4) the Prevention of Cruelty to Animals; (11) the Prevention and Removal of Nuisances, (37) the Suppression of Gambling Houses. These are subjects which come within the scope of the Criminal Law and any By-law made by virtue of the powers recited,

which conflict with the General Criminal Law would be invalid. Probably, however, there are provisions in the nature of Police Regulations which a Council could make under these powers which would be in aid of, and not in conflict with, the Criminal Laws of the land.

So far as these provisions may be considered an authority for the exercise of such limited powers as these, the undersigned sees no objection to them.

2. Chapter 32, intituled: "An Act respecting Liquor Licenses. Chapter 33, intituled: 'An Act to provide for the Revocation and Cancellation of Liquor Licenses in certain cases.'"

The question of the relative powers of Parliament and the Legislatures respecting the liquor traffic being still before the Courts, it is unnecessary, the undersigned thinks, to discuss these Acts. But in recommending that under existing circumstances they be left to their operation, he wishes to guard himself against any inference that he believes the Acts to be within the Legislative authority of a Provincial Legislature.

3. Chapter 78, intituled: "An Act to consolidate and amend the several Acts of Incorporation of the City of Winnipeg."

By Section 35, Sub-section 2, it is provided that the occupant of property held by or in trust for Her Majesty, shall, where it is occupied by any person otherwise than in his official capacity, be assessed in respect thereof. So far as this provision may be understood as authorizing an assessment against the occupant for any part of the Crown's interest in the property or, in other words, for any greater interest than the occupant possesses therein, the undersigned would be inclined to the opinion that it is in conflict with the provision of the British North America Act, 1867, which declares that "no lands or property belonging to Canada or any Province shall be liable to taxation."

By Section 149 the powers of the City Council to pass By-laws are defined, among which will be found powers similar to those discussed in connection with Chapter 11, and others of a doubtful character.

By Section 192 the power of arresting without warrant is given in certain cases to members of the City Police Force, and by Section 193 a penalty is provided for assaulting Police Officers.

These are matters already dealt with by the criminal law as enacted by Parliament, and the two sections last-mentioned should, in the opinion of the undersigned, be repealed by the Legislature of Manitoba.

The undersigned recommends, in case this Report is approved of, that the Acts mentioned be left to their operation, but that the substance of the Report be communicated to the Lieutenant-Governor of the Province of Manitoba for the information of his Government, and for such action as they shall think necessary.

All of which is respectfully submitted.

(Signed) A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th August,* 1885.

The Committee of the Privy Council have had under consideration a Report dated 25th August, 1885, from the Minister of Justice, with respect to Chapters 11, 32, 33 and 78 of the Acts passed by the Legislature of the Province of Manitoba, in the Session held in the year 1884, and in the 47th year of Her Majesty's reign:

The Committee, on the recommendation of the Minister of Justice, advise that the above mentioned Acts be left to their operation, and they further advise that a Despatch, based upon this, if approved, and embodying the substance of the Report of the Minister of Justice, be forwarded to the Lieutenant-Governor of the Province of

Manitoba for the information of his Government, and for such action as they shall think necessary.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th August, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon an Act passed by the Legislature of Manitoba, in the Session held in the year 1884 (47th Victoria), Chaptered 26, and intituled: "An Act respecting Escheats and Forfeitures and Estates of Intestates."

By this Act the Provincial Authorities are given authority, among other things, to take possession of property, real and personal, which escheats to the Crown by reason of the person last seized thereof, or entitled thereto, dying intestate and without lawful heirs, or which becomes forfeited to the Crown for any cause except crime, and to administer and make dispositions of such property.

The right of the Province of Ontario to real estate escheated by reason of the person last seized thereof dying without heirs, was established by the judgment of the Lords of the Judicial Committee of the Privy Council on the case of the "Attorney-General of Ontario *vs.* Mercer" (L. R. and App. Cases, 767), but their Lordships in that case based their opinion upon the reservation to the Provinces contained in Section 109 of the British North America Act, 1867, whereby all lands, mines, minerals and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick, at the Union, were declared to belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick, in which the same were situate or arise.

But their Lordships distinctly guarded themselves against being understood as deciding whether the words "royalties," in Section 109 of the British North America Act of 1867, extended or not to other Royal rights besides those connected with lands, mines and minerals, and as yet no decision has been reached as to whether the Province in which the property is, or the Dominion is entitled to personal property escheated for want of heirs.

It is also evident, the undersigned thinks, that the decision of their Lordships, before referred to, is not a decision in favor of Manitoba, with respect to real property escheating for want of heirs. Manitoba, when it became a Province, was not possessed of any lands, mines or minerals, and it was provided by the 30th Section of the Manitoba Act (33 Vic., C. 3), that all ungranted or waste lands in the Province should, from and after the date of the transfer, be vested in the Crown and administered by the Government of Canada for the purposes of the Dominion, subject to the conditions contained in the agreement for the surrender of Rupert's Land by the Hudson Bay Company to Her Majesty; from which it would appear to be clear that the 109th Section of the British North America Act, 1867, is not applicable to that Province.

For these reasons the undersigned recommends that the Act under discussion, 47 Vic., Chapter 26, intituled: "An Act respecting Escheats and Forfeitures and Estates of Intestates," be disallowed.

At the same time the undersigned is of opinion that the Lieutenant-Governor of Manitoba should be informed that Your Excellency's Government is ready to join with His Government in submitting to the Courts for their decision, the question herein discussed, so far as they affect the Province of Manitoba.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

CERTIFIED *Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor in Council on the 27th August*, 1885.

The Committee of the Privy Council have had under consideration a dated 25th August, 1885, from the Minister of Justice, in which he recommends for the reasons therein set forth that the following Act passed by the Legislature of the Province of Manitoba in the Session held in the year 1884, Chaptered 26, and intituled: "An Act respecting Escheats and Forfeitures, and Estates of Intestates," should be disallowed.

The Committee concur in the said Report and advise that the said Act be disallowed accordingly, and that a copy of this Minute, and of the Report of the Minister of Justice, be forwarded to the Lieutenant-Governor of the Province of Manitoba for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, 27th August, 1885.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of Manitoba, with the advice of the Legislative Assembly of that Province, did, on the 29th day of April, 1884, pass an Act which has been transmitted, intituled as follows, viz.:—"An Act respecting Escheats, Forfeitures and Estates of Intestates;"

And whereas, the said Act has been laid before His Excellency the Governor-General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of Manitoba and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,
Clerk Privy Council.

I, Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, Governor-General of Canada, do hereby certify that the undermentioned Act passed by the Legislature of the Province of Manitoba on the 29th day of April, 1884, intituled: "An Act respecting Escheats, Forfeitures and Estates of Intestates," was received by me on the 29th day of August, 1884.

Given under my hand and seal this 27th day of August, 1885.

LANSDOWNE.

BRITISH COLUMBIA, 35TH VICTORIA, 1872.

1ST SESSION—1ST PARLIAMENT.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

GOVERNOR'S OFFICE, BRITISH COLUMBIA, 11th April, 1872.

SIR,—I have the honor to transmit herewith, for such action as His Excellency the Governor General may be pleased to take thereon, duly authenticated copies of thirty-three Acts, the titles of which are set forth in the Schedule hereto annexed, to which I have this day, in the Legislative Assembly, declared my assent in Her Majesty's name.

I also enclose for His Excellency's consideration, a copy of the Report of my Attorney General on each of the several Bills.

I have, &c.,

JOSEPH W. TRUTCH.
Lieutenant-Governor.

The Honorable JOSEPH HOWE,
Secretary of State for the Provinces.

SCHEDULE *of Acts transmitted by the Lieutenant-Governor of British Columbia to the Honorable the Secretary of State for the Provinces, in Despatch No.* 54 *of the* 11*th of April*, 1872.

No. 1. An Act respecting the Statutes.

No. 2. An Act to abolish certain Road Tolls in British Columbia.

No. 3. An Act to adopt the Tariff and Excise Laws of Canada.

No. 4. An Act to define the Privileges, Immunities and Powers of the Legislative Assembly, and to give summary protection to persons employed in the Publication of Sessional Papers.

No. 5. An Act to provide for Oaths to Witnesses being administered in certain cases for the purposes of the Legislative Assembly.

No. 6. An Act to establish a Consolidated Revenue Fund for the Province of British Columbia.

No. 7. An Act to further amend the Road Ordinance, 1869.

No. 8. An Act to enable the Lieutenant-Governor to appoint Notaries Public.

No. 9. An Act for continuing the Legislative Assembly in case of the demise of the Crown.

No. 10. An Act to amend the manner of taking the verdict of a Jury in Civil cases.

No. 11. An Act to repeal the Civil List Act, 1871.

No. 12. An Act to make provision for inquiries concerning Public matters.

No. 13. An Act to enable the Lieutenant-Governor to appoint Justices of the Peace and Coroners.

No. 14. An Act to amend "The Gold Mining Ordinance, 1867."

No. 15. An Act to define the designation of the Officer described as the Chief Commissioner of Lands and Works, and to alter and define the designation of the Colonial Secretary, as mentioned in "The Constitution Act, 1871."

No. 16. An Act respecting Public Schools.

No. 17. An Act respecting Breeding Stock.

No. 18. An Act respecting the better administration of Justice in British Columbia.

No. 19. An Act respecting the security to be given by Officers of British Columbia.

No. 20. An Act to amend and explain "The Marriage Ordinance, 1867."

No. 21. An Act to amend "The Election Regulation Act, 1871."

No. 22. An Act to make provision for the better administration of Justice in British Columbia.

No. 23. An Act to amend the "Game Ordinance, 1870."

No. 24. An Act to make provision for the better administration of Justice in British Columbia.

No. 25. An Act to remove doubts as to the Jurisdiction of the Supreme Court of British Columbia, and of the Judges thereof, over the persons and estates of Idiots and Lunatics.

No. 26. An Act respecting the Registration of Births, Deaths and Marriages in the Province of British Columbia.

No. 27. An Act to amend the Schedule of The Constitution Act, 1871."

No. 28. An Act respecting Public and other Works in British Columbia.

No. 29. An Act to alter and amend the course of descent of Real Estate.

No. 30. An Act to alter and amend "The Constituuion Act, 1871."

No. 31. An Act to amend the Land Ordinance Act, 1870.

No. 32. An Act to carry into effect the recommendation of the Commission on "The Tax Sale Repeal Ordinance, 1867, Amendment Act," and to give relief in certain cases not appointed by the Commissioners.

No. 33. An Act for granting certain sums of money for defraying the expenses of Civil Government for the year 1872, and for making good certain sums expended for the public service in 1871, and for other purposes.

No. 34. An Act respecting Probate and Administration duty.

No. 35. An Act respecting Municipalities.

No. 36. An Act to make provision for the registration in British Columbia of certain foreign Companies.

Reports of Mr. Attorney-General McCreight to Lieut.-Governor, British Columbia.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 4 "An Act to define the Privileges, Immunities and Powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

That portion of the Act relating to the privileges, immunities and powers of the Legislative Assembly is passed, as recited in the preamble, by virtue of the powers contained in "The Constitution Act, 1871," and they are limited to the privileges, immunities and powers enjoyed by the Commons House of Parliament of the Dominion.

The measure is required by the Constitution Act, and it appears to be free from any objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 25. "An Act to remove doubts as to the jurisdiction of the Supreme Court of British Columbia, and of the Judges thereof, over the persons and estates of Idiots and Lunatics."

This Act, as its preamble recites, has been passed to remove doubts that have been entertained as to the jurisdiction of the Supreme Court over the persons and estates of idiots and lunatics, and it gives the Judges of the Supreme Court the same jurisdiction in lunacy as the Lord Chancellor or Lords Justices in England have, and makes past proceedings in lunacy in British Columbia valid. I think that the Act, as it stands, is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 23. "An Act to amend the Game Ordinance, 1870."

This Act merely excludes wild pigeons from the "Game Ordinance, 1870," and is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 24. "An Act to make provision for the better Administration of Justice in British Columbia."

This Act has been passed in accordance with the exclusive power given to Provincial Legislatures by the British North America Act, of making Laws for the Administration of Justice—and in accordance with Section 5 of the Terms of Union.

It provides for the appointment of a third Judge of the Supreme Court, and seems to be a measure free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 18.

"An Act to make provision for the better Administration of Justice in British Columbia."

This Act gives the Lieutenant-Governor in Council power to define the limits of the Districts within, and the times at which, Circuit Courts and Courts of Assize and *Nisi Prius* shall be holden in the Province, and the places at which such Courts shall be held within such limits. I see no objection to the Act.

I have, &c.,

J. F McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled : No. 22. "An Act to make provision for the better Administration of Justice in British Columbia."

On reference to No. 95 of the Revised Statutes, it will be observed that the Governor General has only power to appoint gentlemen who are Justices of the Peace of British Columbia to the office of a County Court Judge; and this Act has been passed to remove this restriction upon such appointments.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed in the present Session of the Legislature, intituled : No. 5. "An Act to provide for Oaths to Witnesses being administered in certain cases for the purpose of the Legislative Assembly."

This Act is necessary to enable Select Committees on Private Bills to administer Oaths to Witnesses under examination, and is in substance the same as the Imperial Act 21 and 22 Vic., Cap. 78, and seems to be free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 6th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled : No. 6. "An Act to establish a Consolidated Revenue Fund for the Province of British Columbia."

This Act provides for the establishment of a Consolidated Revenue Fund, for a permanent charge thereon, for cost of collection, management and receipt thereof—that the appropriation of any part of the fund, or of any tax, or other import, shall

first be recommended by message by the Lieutenant-Governor—and for the investment of the surplus funds.

I see nothing objectionable in the Act as it stands.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session, intituled: No. 7. "An Act to further amend the Road Ordinance, 1869."

This Act enables the Lieutenant-Governor to appoint the places within the Districts at which the Road Tax Lists may be inspected.

And also declares that the property of the Road Tax Lists shall be deemed to have been, and be vested in the persons mentioned in the Act.

The Act, I think, is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of Her Majesty's Government, upon the Act passed during the present Session of the Legislature, intituled: No. 8. "An Act to enable the Lieutenant-Governor to appoint Notaries Public."

This Act has been passed to remove doubts as to whether the previous Governors of the former Colonies of Vancouver Island and British Columbia had power to grant commissions to Notaries Public; to confirm all commissions and appointments made by them, and to give the Lieutenant-Governor power to appoint Notaries Public for the Province.

This provision is likely to be a useful one, as, owing to there being no Notaries at Nanaimo, New Westminster and other places, great inconvenience has for a long time been felt in getting documents properly authenticated.

I think no objection can be taken to the Act.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 9. "An Act for continuing the Legislative Assembly of British Columbia in case of the demise of the Crown."

This Act has been passed, as it is not clear whether the Imperial Act relating to this subject applies to the Provincial Legislatures of the Dominion.

I think it is an Act to which no objection can be taken.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled : No. 10. "An Act to amend the manner of taking the verdict of a Jury in Civil cases."

This Act provides for the verdict of a jury in civil cases being received where a majority, if not less than three-fourths, are of accord after three hours' deliberation.

An Act identical with this was in force for some years in the former colony of Vancouver Island, and was found to work well.

In a small community like this, where few individuals are absolutely unknown to each other, an Act of this kind is almost indispensable, owing to the difficulty in obtaining unanimity in juries.

I think no objection can be taken to the Act.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled : No. 11. "An Act to repeal the Civil List Act, 1871."

This Act has been passed in accordance with the promise contained in the Lieutenant-Governor's opening Speech of this Session, and with a view of placing in the hands of the Legislature the power of determining the amount of salary to be attached to each Officer in the public service that may be maintained, and I think it is free from objection.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 25th March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled : No. 12. "An Act to make provision for Inquiries concerning Public Matters."

This Act enables the Lieutenant-Governor to appoint Commissioners with powers to summon and administer oaths to witnesses, upon an inquiry into public matters, and is a useful Act, and seems to contain nothing objectionable.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 21st March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 13. "An Act to enable the Lieutenant-Governor to appoint Justices of the Peace and Coroners."

This is a useful Act, and I think no objection can be taken to it.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 6th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 14. "An Act to amend the Gold Mining Ordinance, 1867."

This Act contains provisions for lowering the scale of fees charged under the principal Act.

The interpretation of "Creek Claims" and "Quartz Claims" is more favorable to the Miner than in the principal Act.

The clause providing for the remedies against Debtors in default of payment of Assessments is preferable to the clause it supersedes; inasmuch as provision is made for notices and advertisements of sale to be given, in case of the absence of the Debtor.

The jurisdiction of the Mining Court is enlarged, so that it can deal with actions upon contracts entered into between Miners and other persons for the supply of goods for mining purposes.

Provision is made for leave of absence being granted in certain cases, not provided for by the principal Act.

The Act is one to which I think no objection can be taken.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY GENERAL'S OFFICE, BRITISH COLUMBIA, 25th March, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 15. "An Act to define and explain the designation of the Officer described as the Commissioner of Lands and Works, and to alter and define the designation of the Colonial Secretary, as mentioned in the Constitution Act, 1871."

This Act was rendered advisable in order to leave no doubt as to the Chief Commissioner of Lands and Works, mentioned in the Constitution Act, 1871, having all the powers, duties and authorities had and exerciseable from time to time by the different heads of that Department, under different Ordinances and Acts.

The Officer described in the Constitution Act as the Colonial Secretary is to be henceforth called the Provincial Secretary.

The Act, as far as I can see, is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 16. "An Act respecting Public Schools."

This Act provides for a system of free non-Sectarian Schools throughout the Province, and appears to be a measure free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 22nd March, 1872.

SIR,—I have the honor to report, for the information of the Governor-General, upon an Act passed during the present Session of the Legislature, intituled: No. 17. "An Act respecting Breeding Stock."

This Act has been passed to prevent the running at large of entire animals during certain seasons of the year; and provision is made that the Act shall not apply to any District, unless application shall be made in writing to the Lieutenant-Governor in Council, signed by at least two-thirds of the resident land owners or occupiers in the District. The Act, as far as I can see, contains nothing objectionable.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 19. "An Act respecting the Security to be given by Officers of British Columbia."

This seems to be a useful Act to have on our Statute Book, and, as far as I see, seems to be free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 20. "An Act to amend and explain the Marriage Ordinance, 1867."

This Act enables the Lieutenant-Governor to appoint Registrars for the purposes of this Act and the principal Act, and empowers such Registrars to take the Statutory Declaration mentioned in the principal Act.

I think the Act is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 21. "An Act to amend the Election Regulation Act, 1871."

This Act enables Electors to vote at an Election in any Polling Division within the Electoral District in which they have been registered, and has been passed to suit the convenience of Miners and others who may have registered in one Polling Division and, at the time of the Election, may be in another Division of the District.

The Act can be reported free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 26. "An Act respecting the Registration of Births, Deaths and Marriages in the Prov ince of British Columbia."

This appears to be a useful Act, the want of which has long been felt in British Columbia, and can fairly lay claim to Her Majesty's assent.

The Act would be difficult of application to Chinese and Indians, and such an extension would probably be of little advantage.

A clause has been inserted accordingly, excepting them from its operation. This, it is conceived, is quite legitimate as regards Section 91, Paragraph 24, of the British North America Act, 1867.

I have, &c.,

J. F. McCREIGHT.
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 28. "An Act respecting Public and other Works in British Columbia."

This Act enables the Lieutenant-Governor in Council to take land for public purposes, giving compensation to owners.

The arbitration clauses likewise provides for disputes between the Crown and Subject arising out of certain contracts.

I see no objection to the measure

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 7th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 27. "An Act to amend the Schedule of the Constitution Act, 1871."

This Act enlarges the area of the Electoral District of Nanaimo, which, as it stood defined in the principal Act, excluded a number of settlers in the vicinity, and I see nothing to object to in the Act.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 29 "An Act to alter and amend the course of descent of Real Estate."

This Act abolishes the law of Primogeniture.

I see no objection to the measure.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 9th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 30. "An Act to amend the Constitution Act, 1871."

This Act repeals the clauses relating to the indemnity to be allowed to Members of the Legislature during each Session.

The object of the Act is to get a fresh scale of payment framed at the next sitting of the House, more particularly with regard to the allowance for mileage, which, at present, is not considered sufficient to cover the expenses of Members travelling from Cariboo, Kootenay and other remote districts. I see no objection to the Act.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor-General, upon an Act passed during the present Session of the Legislature, intituled: No. 32. "An Act to carry into effect the recommendations of the Commission on 'The Tax sale repeal Ordinance, 1867, Amendment Act,' and to give relief in certain cases not appointed by the Commissioners."

This Act enables the Registrar-General of Titles, when he finds, by production of a receipt, that a tax charged against real estate has been paid, to cancel the same.

I see no objection to the measure.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 9th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 31. "An Act to amend 'The Land Ordinance, 1870.'"

This Act amends the section of the principal Act relating to water privileges, and seems to be a useful measure, and free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 9th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 33. "An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1872, and for making good certain sums expended for the public service in 1871, and for other purposes."

This Act has been passed in the usual form in which similar Acts have heretofore received Her Majesty's assent.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 11th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 35. "An Act respecting Municipalities."

This Act provides for a system of Municipal Government throughout the Province, but is not to come into operation in any locality until certain requirements mentioned in the Act are fulfilled.

The machinery is imperfect, as regards the manner of taking the municipal vote under the 9th Section of the Act, but I see no sufficient reason for His Excellency to withhold his assent.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 9th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 34. "An Act respecting Probate and Administration Duty."

This Act provides for a return of so much of the duty originally paid, as shall be in excess of the amount of 3 per cent. on the net assets of the estate of the deceased.

It has on several occasions happened, that whilst the gross assets were considerable, the debts were almost equally great, and a duty of 3 per cent. on such gross amount was a heavy charge on the estate.

The provision is similar to what obtains in England, and is free from objection.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 11th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: No. 36. "An Act to make provision for the Registration in British Columbia of certain Foreign Companies."

This Act provides for the Registration in British Columbia of certain Companies, which have been incorporated in foreign States.

It is conceived that the measure falls within the class of subjects referred to in Section 92, Sub-Section 11, of the "British North America Act, 1867," and cannot be objected to under the other provisions thereof, and may, therefore, with propriety, be assented to.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 6th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Military and Naval Settlers' Act, 1863."

This Act extends the time for the presentation, by the applicant for a free grant of land, of the certificate of the General Commanding-in-Chief in England, or from the office of the Lords Commissioners of the Admiralty, showing that the settlement of such a person in a British colony has been sanctioned, and showing also the rank and length of service of such person, as mentioned in the principal Act, from one to three years.

And also extends the proviso that no location ticket shall be granted, or free grant made, unless the particular land to be included therein, shall have been claimed to within three years instead of two years, as in the principal Act.

The Act was passed with a view to encourage the settlement in British Columbia of military and naval officers, and as it is perhaps in conflict with the 11th Section of the Terms of Union with Canada, I would respectfully suggest that His Excellency should reserve his assent.

I have, &c.,

J. F. McCREIGHT,
Attorney-General,

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 30th April, 1872.

SIR,—I had the honor to report to you, on the 6th instant, that I did not consider that an Act intituled: "The Military and Naval Settlers, Act Amendment Act, 1872," was a measure to which, in conformity with the law, could your assent be given, and I think an inspection will fully bear out this statement.

The object of this Act is to give enlarged facilities for the acquirement of land in British Columbia by military and naval settlers; having regard to the 6th and 10th Sections of the principal Act, which is No. 43 of the Revised Statutes, 1871. It seems unnecessary to inquire whether the operation of the last mentioned Act is temporarily suspended by the 11th Section of the Terms of Union with Canada, because it seems very evident that any proposed enlargement of its provisions is plainly consistent with those terms, and therefore must be treated as illegal.

The right of pre-emption therein referred to must, of course, mean that which is prescribed as the "Land Ordinance, 1870," No. 144 of the Revised Statutes, 1871.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 8th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Qualification of Voters Act, 1871."

This Bill, purporting to disfranchise Indians and Chinese, seems to be contrary to the British North America Act, Section 91, Sub-Section 24, and unconstitutional.

I would respectfully submit that His Excellency should reserve the same for the consideration of the Governor General.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 17th April, 1872.

SIR,—I have the honor to report upon an Act intituled: "An Act to amend the "Qualification and Registration of Voters Act, 1871."

This Act, whilst extending the franchise in this Province to every male of the age of 21 years, who is entitled within the Province to the privilege of a natural-born British subject, without any property qualification (subject to certain provisos, which are immaterial to this enquiry), by the concluding clause enacts "that nothing herein contained shall be deemed to apply to Chinese or Indians," and thereby purports to exclude from the exercise of the Electoral Franchise not only Chinamen, but the aboriginals of the Province.

Under the "Qualification and Registration of Voters Act, 1871" (No. 156 of the Revised Statutes, 1871), as might have been expected, all persons who had the qualification therein described (see Section 3 of that Act) were entitled to be registered as voters, independent of any question of nationality, race or color; and the above-mentioned restriction seems to be objectionable, firstly: as being contrary to the instructions usually furnished to Governors of Colonies—see Section 15, Sub Sections 6 and 9 (which I presume are still applicable), and, secondly, as being beyond the

jurisdiction of the Provincial Legislature. See "British North America Act, 1867," Section 91, Sub-Section 24.

By Section 15, Sub-Section 6, of such instructions, the Governor of a Colony is forbidden to assent to "any Bill, the provisions of which shall appear inconsistent with obligations imposed on us by Treaty."

It is believed that the Legislation attempted by this Act, as regards Chinese, contravenes this clause of the instructions; and it is submitted that it is likewise clearly contrary to Sub-Section 9 which similarly provides against any Bill being assented to "whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable."

But the British North America Act, 1867, seems to afford a still more formidable objection. Not only does the Provincial Act in question purport to legislate on the subject of Indians, but it attempts to deprive them of the exercise of the franchise, regardless of the qualifications therefor, which, in other respects, they may possess; whilst the now existing law, as might be expected, gives them completely the same status as that enjoyed by other British subjects. When it is added that the Indian population is supposed to amount to 50,000 souls, affording, as may be presumed, a proportion of one-fifth, or 10,000 men of the full age of twenty-one years, the grave nature of the question becomes very evident, and reasons of policy as well as of law seem alike to condemn the measure.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 11th April, 1872.

SIR,—I have the honor to report, for the information of the Governor General, upon an Act passed during the present Session of the Legislature, intituled: "An Act to impose a Wild Land Tax."

This Act imposes a tax of 4 cents per acre on unimproved land in the Province.

It is, perhaps, doubtful, whether it may not be considered that it may apply to the land hereafter to be appropriated for railway purposes, under the 11th Section of the Terms of Union, and I would suggest that it should be reserved for the consideration of the Governor General.

I have, &c.,

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, BRITISH COLUMBIA, 30th April, 1882.

SIR,—I had the honor to report, on a former occasion, for Your Honor's information, that I considered that an Act passed by the Legislative Assembly during the last Session, intituled: "The Land Tax Act, 1872," was a measure which, in my opinion, should be reserved for the consideration of His Excellency the Governor General; and I will now state briefly the reasons upon which that Report was founded.

The 1st Section purports to impose an annual tax of 4 cents per acre upon all land in the Province, except as therein, and in the 30th Section, is excepted.

The land hereafter to be appropriated, in furtherance of the construction of the Pacific Railway such (see terms of Union with Canada, Sec. 11) will, no doubt, until such appropriation takes place, be exempted by Sub-Section (*a*) of Section 1, from taxation; but it seems that after "20 miles on each side of the said line," or any portion thereof, shall have been transferred to a Company as a consideration for constructing the railway, the serious difficulty would arise of such Company taking the land, subject to the annual payment of 4 cents per acre.

Perhaps it would be more correct to state that they would fully take into account this impost, as well as the possibility of others of a similar character, before making any such contract, and these terms would be, *pro tanto*, the less favorable to Canada.

The Legislature of British Columbia having agreed to the grant referred to in that section, cannot now derogate therefrom; and as the terms of Union are equivalent to an Act of the Imperial Legislature, any attempt so to do appears to be, not merely improper, but altogether futile.

I have, &c.,

J. F. McCREIGHT,
Attorney-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th September, 1872.

Upon a Despatch, numbered 60, and dated the 11th May last, from the Lieutenant-Governor of British Columbia, transmitting certain Bills passed by the Legislative Assembly of that Province during its then recent Session, which had been reserved for the signification of the pleasure of the Governor General, and transmitting, also, a copy of the Report of the Attorney-General, the undersigned has the honor to report as follows: "An Act to amend the Qualification and Registration of Voters Act, 1871."

The report of Mr. Attorney-General McCreight recommended the reservation of the Act, upon the ground that the 13th Clause precluded the exercise of the electoral franchise, in respect to the Legislative Assembly, by Chinese and Indians, and he was of opinion that the same was in contravention of the instructions furnished to Governors of Colonies, and also of the British North America Act, 1867, Section 91, Sub-Section 24.

Upon the first point the undersigned is of opinion that the Imperial instructions issued to Governors of Colonies, and which accompanied their Commissions direct from the Queen, are not applicable to the cases of Lieutenant Governors of Provinces of Canada who receive their Commissions from the Governor General under the Great Seal of Canada, and to whom instructions are to be communicated by the terms of those Commissions, from the Governor General of Canada in Council, or through any member of the Council.

Every deference would, of course, be paid to the terms of instructions which had been given by the Imperial Government to Governors of Colonies, and the view entertained by Mr. Attorney-General McCreight, of reserving the Bill under these circumstances, has been exercised with much discretion.

It may, however, be observed, that there is no instruction of such a nature in the Commission or Royal Instructions to the Governor General, since the year 1867.

Upon the second point, as to the jurisdiction of the Legislature of British Columbia, as it has been exercised in this instance, the undersigned has the honor to state that he is of opinion that the British North America Act, 1867, Sec. 91, Sub-Sec. 24, which places within the exclusive Legislative authority of the Parliament

of Canada, Indians and lands reserved for Indians," has reference to Legislation connected with Indians generally, and to lands reserved for them.

The Order of the Queen in Council, under which British Columbia was admitted into the Union, is Section 13, as follows:—

"The charge of the Indians, and the trusteeship and arrangement of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbian Government, shall be continued by the Dominion Government after the Union."

But by Section 10 of that Order in Council, the provisions of the British North America Act, 1867, "shall, except, &c., be applicable to British Columbia, in the same way, and to the like extent, as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces originally united by the said Act," and by Section 14, "the constitution of the Executive authority, and of the Legislature of British Columbia, shall, subject to the provisions of the British North America Act, 1867, continue as existing at the time of the Union, until altered under the authority of the said Act," &c.

Now it is by the "British North America Act, 1867," Section 92, enacted that in each Province the Legislature may exclusively make laws in relation to, amongst other classes, the following, viz.: "The amendment, from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant-Governor."

This, it is apprehended, confers on each Province the right of legislating as to its franchise.

It may be mentioned that this right has been exercised by the Province of Ontario in respect to the right of Indians to vote in the District of Algoma at elections of Members of the Legislative Assembly of that Province, by 33 Vic., Cap. 25, Sec. 34, which excepts from the rights of franchise "Indians belonging to tribes and Indians in receipt of Government aid or bounty."

Under these circumstances, the undersigned is of opinion that the Legislature of British Columbia have authority to legislate in their own discretion as to parties by whom the right of franchise in respect of the Legislative Assembly may be exercised.

The undersigned has, therefore, the honor to report that, in his opinion, this Act may receive the assent of the Governor General.

The undersigned recommends, however, that the attention of the Lieutenant-Governor of British Columbia be called to the 10th Section of the Act, which provides a substituted section for Section 3 of the Act which it proposes to amend.

By this section it is provided who shall have the right to vote at elections of Members of the Legislative Assembly, and amongst other requisites is one that the voter shall be entitled to the privilege of a natural-born British subject, &c. But it is provided "that no natural-born British subject who has removed his allegiance, or sworn allegiance to any foreign State, or become the citizen of any foreign State, shall be entitled to be registered under the provisions of this Act, until he shall have taken the oath of allegiance to Her Majesty before some Judge of the Supreme or County Court, Magistrate, or Justice of the Peace in this Province, which oath such Judge, Magistrate or Justice of the Peace is hereby authorized to administer," &c.

Upon the principle before suggested, that it is within the Legislative authority of the Province to regulate by whom the franchise shall be exercised, it is within their authority to provide, if they so desire, that aliens shall not have the right to vote; but if this proviso be intended to have the effect of naturalizing, as a British subject, any person who has removed his allegiance, or sworn allegiance to, or become the citizen of any Foreign State, &c, it is recommended that the Legislature of British Columbia be invited to repeal the proviso, as the subject of the naturalization of aliens is one which by the "British North America Act, 1867," Section 91, Sub-Section 25, is left exclusively to the Legislative jurisdiction of the Parliament of Canada, and Acts have been passed accordingly—31 Vic., Cap. 66, and 34 Vic., Cap. 22—and reference may further be had on this subject to the Acts of the Imperial Parliament of

the 33rd Vic., Caps. 14 and 102, as amended further by an Act of 1872, in respect to the modes by which British nationality may, under certain circumstances, be resumed.

H. BERNARD,
Deputy Minister of Justice.

I concur in this Report.

JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th September,* 1872.

The Committee have had under consideration the annexed Report, dated 18th September, 1872, from the Honorable the Minister of Justice, upon a Bill intituled: "An Act to amend the Qualification and Registration of Voters' Act, 1872," passed by the Legislative Assembly of the Province of British Columbia, and which has been reserved for the signification of the pleasure of the Governor General, and they respectfully advise that the said Bill be assented to, and the recommendation of the Minister of Justice acted on.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th September, 1872.

Upon a Despatch (No. 60) dated the 11th of May last, from the Lieutenant-Governor of British Columbia, transmitting certain Bills passed by the Legislative Assembly of that Province during its then recent Session, which had been reserved for the signification of the pleasure of the Governor General, and transmitting, also, a copy of the Report of the Attorney-General, the undersigned has the honor to report as follows:—

"An Act to amend the Military and Naval Settlers' Act, 1863."

The object of this Act is to enlarge the facilities for the acquirement of land in British Columbia by Military and Naval Settlers, having regard to certain provisions of No. 43 of the Revised Statutes of 1871, which it is proposed to amend and extend in its operation.

The undersigned is of opinion that the operation of this Act would be in conflict with the 11th Section of the Terms of Union of British Columbia with Canada, and he recommends, therefore, that the assent of the Governor General be withheld therefrom.

H. BERNARD,
Deputy Minister of Justice.

I concur.

JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th September*, 1872.

Upon a Despatch No. 60 and dated 11th May last, from the Lieutenant-Governor of British Columbia, transmitting certain Bills passed by the Legislative Assembly of that Province during its then recent Session, which had been reserved for the signification of the pleasure of the Governor General, and transmitting also a copy of the Report of the Attorney-General, the Deputy of the Minister of Justice reports as follows: "An Act to amend the Military and Naval Settlers Act, 1863."

The object of this Act is "to enlarge the facilities for the acquirement of land in British Columbia by Military and Naval Settlers, having regard to certain provisions of No. 43 of the Revised Statutes of 1871, which it is proposed to amend and extend in its operation.

"He is of opinion that the operation of this Act would be in conflict with the 11th Section of the Terms of Union of British Columbia with Canada, and he recommends, therefore, that the assent of the Governor General be withheld therefrom."

The Hon. the Minister of Justice, having reported his concurrence in the above recommendation, the Committee advise that the Act above mentioned be not assented to.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th October, 1872.

Upon a Despatch (No. 60, dated the 11th May), from the Lieutenant-Governor of British Columbia, transmitting certain Bills passed by the Legislative Assembly of that Province during its then recent Session, which had been reserved for the signification of the pleasure of the Governor General, and transmitting, also, a copy of the Report of the Attorney-General, the undersigned has the honor to report as follows:—

"An Act to impose a Wild Land Tax." This Act imposes a tax of 4 cents an acre upon all land, with certain exceptions.

By Sub-section *a* of the first clause of this Bill, lands vested in, or held in trust for Her Majesty, or for the public uses of the Province, are exempted from the tax.

Although, under this exemption, the lands to be conveyed in trust by the Government of British Columbia to that of the Dominion under the 11th Section of the Terms of Union between British Columbia and the Dominion, will be free from the tax, it is clear that whenever these lands are conveyed to any Company incorporated for the purpose of the construction of the Pacific Railway the exemption will cease.

Now the imposition of so heavy a tax as 4 cents an acre upon this large tract of wild land will render it practically valueless.

The Government of Canada are taking active steps to endeavor to induce capitalists to engage in the great undertaking of constructing a Railway to connect the two oceans. The chief inducement to such capitalists is the promise of a large grant of land in aid of the enterprise, and the imposition of such a tax upon these railway lands would greatly diminish the prospect of a Company being formed.

The Attorney-General seems to agree with the undersigned in this opinion. Under the circumstances, therefore, the undersigned begs respectfully to recommend that the assent of Your Excellency be withheld from this Bill.

He also begs leave to suggest that the Lieutenant-Governor of British Columbia be instructed to press upon his Government the expediency of exempting these railway lands in any Act that may be hereafter passed imposing a land tax.

He would further suggest, to prevent the possibility of a doubt, that Sub-section *a*, above referred to, should, in any new Act, be amended, by exempting lands *now or at any time hereafter* vested in or held in trust for Her Majesty.

All which, &c.,

JOHN A. MACDONALD.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 12*th October*, 1872.

Upon a Despatch (No. 60, and dated the 11th May last), from the Lieutenant-Governor of British Columbia, transmitting certain Bills passed by the Legislative Assembly of that Province during its recent Session, which had been reserved for the signification of the pleasure of the Governor General, and transmitting also a copy of a Report of the Attorney-General.

The Hon. the Minister of Justice, to whom the above mentioned Despatch and Report were referred, reports, with respect to a Bill intituled: "An Act to impose a Wild Land Tax," as follows:—

"That this Act imposes a tax of 4 cents per acre upon all lands, with certain exceptions;

"That by Sub-section *a* of the first clause of this Bill, lands vested in, or held in trust for Her Majesty, or for the public use of the Province, are exempted from the tax;

"Although, under this exemption, the lands to be conveyed in trust by the Government of British Columbia to that of the Dominion, under the 11th Section of the Terms of Union between British Columbia, will be free from the tax, it is clear that whenever these lands are conveyed to any Company, incorporated for the purpose of the construction of the Pacific Railway, the exemption will cease.

"Now, the imposition of so heavy a tax as 4 cents an acre upon this large tract of wild land will render it practically valueless.

"The Government of Canada are taking active steps to endeavor to induce capitalists to engage in the great undertaking of constructing a Railway to connect the two oceans.

"The chief inducement to such capitalists is the promise of a large grant of land in aid of the enterprise, and the imposition of such a tax upon these railway lands would greatly diminish the prospect of a Company being formed.

"The Attorney-General of British Columbia seems to agree with the Minister of Justice in this opinion.

"Under the circumstances, therefore, he, the Minister, begs respectfully to recommend that the assent of Your Excellency be withheld from this Bill.

"He also begs leave to suggest that the Lieutenant-Governor of British Columbia be instructed to press upon his Government the expediency of exempting these railway lands in any Act that may hereafter be passed imposing a land tax.

"He would further suggest, to prevent the possibility of a doubt, that Sub-section *a*, above referred to, should, in any new Act, be amended, by exempting land *now or at any time hereafter* vested in or held in trust for Her Majesty."

The Committee concur in the foregoing Report of the Minister of Justice, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th December, 1872.

With reference to an Act passed by the Legislature of the Province of British Columbia at its first Session, 35th Victoria, No. 4.

"An Act to define the privileges, immunities, and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers;"

The undersigned has the honor to report that the same is objectionable. The Act in question appears to be a transcript of the Act of the Province of Ontario, 32nd Vic., Chap. 3, 1868.

Upon the last mentioned Act, the undersigned had the honor to report that it was objectionable, and that it appeared to him that it was in excess of the power of the Provincial Legislature.

The Report of the undersigned was transmitted to the Secretary of State for the Colonies, and by him referred to the Law Officers of the Crown in England, and the Attorney-General and Solicitor-General advised that, having considered the Act, they were of opinion that it was not competent for the Legislature of the Province of Ontario to pass it, and that it was inconsistent with the provisions of Sections 92 and 96 of the "British North America Act, 1867."

Under these circumstances, the Act of Ontario in question was disallowed by Proclamation of His Excellency the Governor General.

The undersigned has, therefore, the honor to recommend that communication be had with the Lieutenant-Governor of British Columbia to the above effect, and suggesting whether under the circumstances, it is not advisable that the Act in question should be repealed during the second Session of the Legislature of that Province.

JOHN A. MACDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd December*, 1872.

On a Report, dated 18th December, 1872, from the Hon. the Minister of Justice, with reference to an Act passed by the Legislature of the Province of British Columbia at its first Session, 35 Vic., No. 4, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers," stating that the same is objectionable.

That the Act in question appears to be a transcript of the Act of the Province of Ontario, 32 Vic., Cap. 3, 1868. That upon the last mentioned Act, the Minister of Justice reported that it was objectionable, and that it appeared to him that it was in excess of the power of the Provincial Legislature.

That his Report was transmitted to the Secretary of State for the Colonies, and by him referred to the Law Officers of the Crown in England, and that the Attorney-General and Solicitor-General advised that, having considered the Act, they were of opinion that it was not competent for the Legislature of the Province of Ontario to pass it, and that it was inconsistent with the provisions of Sections 92 and 96 of the British North America Act, 1867.

That under these circumstances the Act of Ontario in question was disallowed by Proclamation of His Excellency the Governor General.

The Minister of Justice, therefore, recommends that communication be had with the Lieutenant-Governor of British Columbia, to the above effect, and suggesting

whether, under the circumstances, it is not advisable that the Act in question should be repealed during the second Session of the Legislature of that Province.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

NOTE.—Repealed by Act of B. C. 1873, 36th Vic., Chap. 35.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd January, 1873.

The undersigned, to whom were referred certified copies of the Acts passed by the Legislature of British Columbia, in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 11th of April last, has the honor to report:—

That he has examined carefully the said Acts, and, with the exception of those undermentioned, finds them unobjectionable and such as could properly be passed by the Legislature.

The Acts to which exception is taken are as follow:—No. 4. "An Act to define the immunities, privileges and powers of the Legislative Assembly, &c." A separate Report has been made on this Act.

No. 12. "An Act to make provision for Enquiries respecting Public Matters."

The second Clause of this Act is objectionable, inasmuch as it declares any wilfully false statement made by a witness on oath, to be a misdemeanor, punishable in the same manner as wilful and corrupt perjury. This is Legislation respecting Criminal Law, which, by the Union Act, is vested in the Parliament of Canada.

No. 31. "An Act to amend the Land Ordinance, 1870." The fourth Clause of this Act is objectionable for the same reason as above given with respect to Act No. 12.

No. 35. "An Act respecting Municipalities." The 18th Clause of this Act is also objectionable for the same reason. The attention of the Government of British Columbia should be called to the three last mentioned Acts with a view to the repeal of the objectionable clauses during the present Session of their Legislature, and the undersigned would take the liberty of suggesting, that by the 15th Paragraph of the 92nd Clause of the "British North America Act, 1867," a Local Legislature can enforce laws, by fine, penalty or imprisonment, without declaring any breach of those laws to be a crime.

No. 26. "An Act respecting the registration of Births, Deaths and Marriages in the Province of British Columbia." The undersigned, while he recommends that this Act should be allowed to go into operation, desires to call attention to the fact that the power of the Local Legislature to pass the same may be questioned, as being connected with statistics, which by the 91st Section of the "British North America Act, 1867," Paragraph 6, is a matter within the jurisdiction of the Parliament of Canada.

No. 36. "An Act to make provision for the registration in British Columbia of certain foreign Companies." While also recommending that this Act be allowed to go into operation the undersigned would, at the same time, express his opinion that no foreign Company, having other than Provincial objects, "can legally be registered under this Act." *See* "British North America Act, 1867," Section 92, Paragraph 11.

The undersigned has, therefore, the honor to recommend that all the said Acts be left to their operation except Nos. 4 (already reported upon) 12, 31, 35.

JOHN A. MACDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th January*, 1873.

On a Report dated 2nd January, 1872, from the Hon. the Minister of Justice, to whom was referred certified copies of the Acts passed by the Legislature of British Columbia, in the 35th year of Her Majesty's reign, and assented to by the Lieutenant-Governor on the 11th April last, stating that he has examined carefully the said Acts, and that with the exception of those undermentioned he finds them unobjectionable, and such as could be properly passed by the Legislature.

That the Acts to which exception is taken are as follows:—

No. 4. "An Act to define the privileges, immunities and powers of the Legislative Assembly." That a separate Report has been made on this Act.

No. 12. "An Act to make provision for Enquiries concerning Public Matters.

That the second Clause of this Act is objectionable, inasmuch as it declares any wilfully false statement made by a witness on oath to be a misdemeanor, punishable in the same manner as wilful and corrupt perjury, that this is Legislation respecting Criminal Law, which by the Union Act is vested in the Parliament of Canada.

No. 31. "An Act to amend the Land Ordinance, 1870." That the fourth Clause of this Act is objectionable for the same reason as above given with respect to Act No. 12.

No. 35. "An Act respecting Municipalities." That the eighteenth Clause of this Act is also objectionable for the same reason. That the attention of the Government of British Columbia should be called to the three last-mentioned Acts, with a view to the repeal of the objectionable clauses during the present Session of their Legislature. The Minister of Justice suggests that by the 15th Paragraph of the 92nd Clause of the British North America Act, 1867, a Local Legislature can enforce Laws by fine, penalty or imprisonment, without declaring any breach of those laws to be a crime.

No. 26. "An Act respecting the Registration of Births, Deaths and Marriages in the Province of British Columbia." The Minister of Justice observes that, while he recommends that this Act should be allowed to go into operation, he desires to call attention to the fact that the power of the Local Legislature to pass the same may be questioned as being connected with Statistics, which by the 91st Section of the British North America Act, 1867, Paragraph 6, is a matter within the jurisdiction of the Parliament of Canada.

No. 36. "An Act to make provision for the registration in British Columbia of certain foreign Companies." While also recommending that this Act be allowed to go into operation, the Minister of Justice at the same time expresses his opinion that no foreign Company, having other than Provincial objects, can legally be registered under this Act. *See* the British North America Act, 1867, Section 92, Paragraph 11.

The Minister of Justice, therefore, recommends that all the said Acts be left to their operation, except Nos. 4 (already reported) 12, 31 and 35.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Secretary of State for the Provinces to the Lieutenant-Governor of British Columbia.

DEPARTMENT OF SECRETARY OF STATE FOR THE PROVINCES,

OTTAWA, 26th December, 1872.

SIR,—I have the honor to inform you that the Governor General has had under his consideration in Council, an Act passed by the Legislature of the Province of British Columbia at its past Session, 35 Victoria, No. 4, intituled: "An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers."

His Excellency is advised that the Act in question is a transcript of the Act of the Province of Ontario, 32 Victoria, Chapter 3, 1860. The latter Act was referred to the Law Officers of the Crown in England, who gave it as their opinion that it was not competent for the Local Legislature to pass it, and that it was inconsistent with the provisions of Sections 92 and 96 of the British North America Act, 1867.

Under these circumstances the Act of the Ontario Legislature should be disallowed by His Excellency's Proclamation.

I have, therefore, to request you to bring the Act in question under the notice of your Executive Council with a view to their considering the advisability of repealing the Act, during the second Session of the Legislature of British Columbia.

I have, &c.,

JOSEPH HOWE,

Secretary of State for the Provinces.

Hon. JOS. TRUTCH,
Lieutenant-Governor,
Victoria, British Columbia.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 31st January, 1873.

SIR,—With reference to your Despatch, No. 134, of the 26th ultimo, and No. 1, of the instant, the contents of which I duly communicated to my Ministers, I have the honor to enclose herewith, for the information of His Excellency the Governor General, a Minute of the Executive Council of this Province, expressing the concurrence of this Government with the suggestions conveyed in your said Despatches, for the repeal of Act No. 4 of the last Session of the Legislature of British Columbia, and for certain amendments of Acts No. 12, No. 31, and No. 35; and I have further to state that the Bills to carry those suggestions into effect, have been laid before the Legislative Assembly.

I have, &c.,

JOSEPH W. TRUTCH,

Lieutenant-Governor.

The Hon.
The Secretary of State for the Provinces.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor in Council on the 27th January,* 1873.

On a Memorandum dated 27th January, 1873, from the Honorable the Attorney-General, reporting that it is advisable to repeal Act No. 4 of last Session, "The

Legislative Assembly Privileges Act, 1872," the same having been declared unconstitutional by the Law Officers of the Crown in England, to whom a similar Act passed in Ontario, in 1868, was referred for their opinion.

Also, that Act No. 12, "The Public Inquiries Aid Act, 1872," be amended by striking out that part of Section 2 constituting a false statement a crime, by the use of the word "misdemeanor."

That Act No. 31, "The Land Ordinance Amendment Act, 1872," be amended in Section 4 by striking out "shall be guilty of a misdemeanor and," and that a clause to that effect be inserted in the Land Amendment Act, 1873.

That Act No. 35, "The Municipality Act, 1872," be amended in Section 18 by striking out the words "be guilty of a misdemeanor and," and that a clause to that effect be inserted in the Municipality Amendment Act, 1873."

The Secretary of State for the Provinces has suggested the said repeal and said amendments.

The Attorney-General recommends the changes.

The Committee advise that the repeal and amendments in the different Acts be approved.

Certified.

JAS. JUDSON YOUNG,
Clerk Executive Council.

To His Excellency
The Lieutenant-Governor.

BRITISH COLUMBIA, 36TH VICTORIA, 1872-73.

2ND SESSION—1ST PARLIAMENT.

Lieutenant-Governor Trutch to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 5th March, 1873.

SIR,—I have the honor to enclose herewith a Minute of the Executive Council expressing the opinion that it is advisable, in the interests of this Province, that the "Aliens Ordinance, 1867," of British Columbia, should be so amended that aliens may, at any time, upon making a declaration before a Justice of the Peace, of their intention to become British subjects, be entitled to the privileges of citizenship, as far as availing themselves of the rights of pre-emption, under the land law of the Province, subject to the fulfilment subsequently of the requirement of the Act as to their taking the oath of allegiance in the Supreme Court of British Columbia, before a Crown Grant of any land pre-empted by them shall be issued; and requesting me

to urge the Dominion Government to take steps towards the passage of such a measure by the Parliament of Canada.

I beg, therefore, that you will lay this Despatch and its enclosure before His Excellency the Governor General, and commend the desire of this Government to His Excellency's favorable consideration.

I have, &c.,

JOSEPH W. TRUTCH,
Lieutenant-Governor.

The Hon.
The Secretary of State for the Provinces.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor in Council on the 28th February*, 1873.

On a Memorandum, dated 17th February, from the Honorable the Chief Commissioner of Land and Works, reporting that application is constantly being made by aliens now resident in other countries, for information as to the terms upon which they can pre-empt land in British Columbia, and that the present law compelling such parties to reside one year in the Province before allowing them to pre-empt, virtually prohibits their settlement in this Province; and recommending that His Excellency the Lieutenant-Governor be requested to urge upon the Dominion Government the advisability of amending the present Alien Act of British Columbia, so that aliens who may signify their intention, before a Justice of the Peace, to become British subjects, may be able to pre-empt land within this Province immediately after their having made such declaration.

The Committee advise that the recommendation be approved.

Certified.

JAS. JUDSON YOUNG,
Clerk Executive Council.

To His Excellency
The Lieutenant-Governor.

Telegram from Lieutenant-Governor Trutch to the Secretary of State.

VICTORIA, B. C., 22nd May, 1873.

To Secretary of State, Ottawa.

This Government urgently requests compliance with desires expressed in Minute of Council regarding aliens forwarded in Despatch number twenty-seven, of fifth March last.

JOSEPH W. TRUTCH.
Lieutenant-Governor.

Reply.

Your Despatch respecting aliens and County Court Judges before Privy Council. Your telegram of yesterday will be laid before them.

E. A. MEREDITH,
Under Secretary of State.

Lieutenant-Governor Trutch to the Secretary of State for the Provinces.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 23rd May, 1873.

SIR,—With reference to my telegraphic Despatch to you of this day's date, a copy of which is appended hereto, requesting compliance with the desires expressed in the Minute of Executive Council of this Province, forwarded in my Despatch, No. 27, of the 5th March last, regarding the Aliens Act of British Columbia, I have the honor to enclose a Minute of my Executive Council, in accordance with which that telegram was addressed to you.

I have, &c.,

JOSEPH W. TRUTCH,
Lieutenant-Governor.

The Honorable
The Secretary of State for the Provinces.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor on the 21st day of May*, 1873.

On a Memorandum, dated 13th May, 1873, from the Honorable the Chief Commissioner of Lands and Works, recommending that His Excellency the Lieutenant-Governor be respectfully requested to telegraph to the Honorable the Secretary of State for the Provinces, urging compliance on the part of the Dominion Government with the desire expressed by this Government, regarding the Aliens Act of British Columbia already forwarded to His Excellency ;

The Committee advise that the recommendation be approved.

Certified.

W. J. ARMSTRONG,
Clerk Executive Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 3rd June, 1873.

The undersigned, to whom was referred the letter of His Honor the Lieutenant-Governor of British Columbia of 5th March, 1873, requesting that the Dominion Government would take steps for the passage of an Act by its Legislatures, amending and extending the "Aliens Ordinance Act, 1867," of that Province, has the honor

to report that by the terms of the British North America Act, 1867, as applied to British Columbia, the jurisdiction over property and civil rights is vested in the Provincial Legislatures exclusively, who by law can determine the terms upon which aliens may become entitled to pre-empt land within the Province.

The right of legislating upon naturalization possessed by the Dominion Legislatures, extends only to conferring "Political Status."

JOHN A. MACDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th June,* 1873.

On the Despatch of the Lieutenant-Governor of British Columbia of 5th March, 1873, requesting that the Dominion Government would take steps for the passage of an Act by its Parliament amending and extending the Aliens Ordinance, 1867, of that Province;

The Honorable the Minister of Justice reports that by the terms of the British North America Act, 1867, as applied to British Columbia, the jurisdiction over property and civil rights is vested in the Provincial Legislature exclusively, who can determine the terms upon which aliens may become entitled to "pre-empt" lands within the Province.

The right of legislating upon naturalization possessed by the Dominion Parliament, extends only to conferring "Political Status."

The Committee concur in the above opinion, and desire that the substance of this Report be communicated to the Government of British Columbia.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 27th February, 1873.

SIR,—I have the honor to transmit herewith, for such action as His Excellency the Governor General may be pleased to take in reference thereto, an authenticated copy of a Bill, Chapter 43, intituled: "An Act to render children born out of lawful wedlock, whose parents now are, or may, hereafter, under certain restrictions, be married," which was passed by the Legislative Assembly during its recent Session, but has been reserved by me for the signification of His Excellency the Governor General's pleasure in regard thereto.

I also enclose, for His Excellency's consideration, a copy of the Report of my Attorney-General on the Bill.

I have, &c.,

JOSEPH W. TRUTCH,
Lieutenant-Governor.

The Hon.

The Secretary of State for the Provinces.

Attorney-General Walkem to the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 21st February, 1873.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to render legitimate, children born out of lawful wedlock, whose parents now are, or may hereafter, under certain restrictions, be married."

This Bill was passed last Session, and was reserved for the consideration of His Excellency the Governor General.

His Excellency not having signified his assent to the Act, it is presumed that the objections urged against its adoption by the Attorney-General, in his Report to Your Excellency, bearing date the 8th day of May, 1872, have prevented its being assented to.

The Act being identical with one passed last year, the same objections apply, and I would, therefore, respectfully request Your Excellency to withhold your assent, and refer it for the consideration of His Excellency the Governor General.

I have, &c.,

GEO. A. WALKEM,

Attorney-General.

MEMO.—No Report appears to have been made on this despatch.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 12th February, 1873.

SIR,—I have the honor to enclose herewith copies of an Address to me from the Legislative Assembly of this Province, and of the explanatory Report appended thereto, requesting me to recommend to the Government of the Dominion the passage of an Act of the Parliament of Canada, legalizing all sales of land in this Province since the 1st June, 1870. I also enclose a Minute of my Executive Council in reference to this Address and Report, and, in accordance with the advice of my Ministers, I beg to submit, for the consideration of His Excellency the Governor General, the request of the Legislative Council preferred in the said Address, the grounds for which are set forth in the Report annexed thereto.

I have, &c.,

JOSEPH W. TRUTCH,

Lieutenant-Governor.

The Hon.

The Secretary of State for the Provinces.

Address from the Legislative Assembly to His Excellency the Honorable Joseph William Trutch, Lieutenant-Governor of the Province of British Columbia.

MAY IT PLEASE YOUR EXCELLENCY:—

We, Her Majesty's dutiful and loyal subjects, the Legislative Assembly of the Province of British Columbia, in Parliamant assembled, beg leave to approach Your Excellency with our respectful request, that Your Excellency will be pleased to

recommend the Dominion Government to pass an Act legalizing all sales of land in this Province since the 1st June, 1870.

Address from the Legislative Assembly to Lieutenant-Governor.

To His Excellency The Honorable JOSEPH WILLIAM TRUTCH, Lieutenant-Governor of the Province of British Columbia.

MAY IT PLEASE YOUR EXCELLENCY :—

We, Her Majesty's dutiful and loyal subjects, the Legislative Assembly of the Province of British Columbia, in Parliament assembled, beg leave to approach Your Excellency with our respectful request that Your Excellency will be pleased to forward the accompanying Report to the proper authorities at Ottawa, to be considered in connection with the Address already presented to Your Excellency, respecting the legalizing of sales of land.

10th February, 1873.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor in Council on the* 11*th February,* 1873.

On a Memorandum dated 10th February, 1873, from the Honorable the President, reporting that an Address passed the Legislative Assembly on 28th January, 1873, respecting the legalizing of sales of land by the Dominion Government, and requesting that a certain Report annexed thereto concerning the same be forwarded to the Dominion Government; and recommending that His Excellency the Lieutenant-Governor be advised to forward the same;

The Committee advise that the recommendation be approved.

Certified.

JAS. JUDSON YOUNG,
Clerk Executive Council.

To His Excellency
The Lieutenant-Governor.

Report of Select Committee appointed to draft an explanatory Address to His Excellency the Lieutenant-Governor in respect to legalizing Sales of Land in the Province since 1870.

The "Land Ordinance, 1865," of the former Colony of British Columbia, contained the following clause:—

"20. Any person in possession of 160 acres of land as aforesaid, may acquire the right to pre-empt and hold any further tract of unsurveyed and unoccupied land contiguous thereto not exceeding 480 acres (and no more either directly or indirectly, save with the express sanction in writing of the Governor in that behalf) over and above the quantity of 160 acres aforesaid, upon the payment to the Stipendiary Magistrate of the district of the sum of two shillings and one penny per acre for the same, as by way of instalment of the purchase money to be ultimately paid to the Government after the survey of the same land."

The "Land Ordinance, 1870," Number 114 of the Revised Statutes of British Columbia repeals the above mentioned "Land Ordinance, 1865," but contains the following provision in Clause 2:—

"But such repeal shall not prejudice or effect any rights acquired, or payments due, or forfeitures or penalties incurred, prior to the passing of this Ordinance in respect of any land in this colony."

After the passage of the said Land Ordinance, 1870, the several Assistant Commissioners of Lands and Works in British Columbia construed the last above mentioned provision in Clause 2 of the Land Ordinance, 1870, as preserving the right of such persons as had pre-empted 160 acres under the Land Ordinance, 1865, to purchase further tracts of contiguous lands (as mentioned in Section 20 of the said Ordinance of 1865); and accordingly, after the passage of the said Land Ordinance, 1870, many persons who were in possession of land pre-empted under the Land Ordinance, 1865, were permitted to purchase contiguous land and to enter into possession thereof.

Such purchasers were invariably required to pay, and did, in fact, pay 50 cents per acre to the Government of British Columbia on account of the block of land contiguous to their pre-emption claims so purchased by them, and in many instances substantial and costly improvements have been made on the land so purchased by them.

On the 2nd day of July, 1872, the Attorney-General of the Province gave the following opinion:—

OPINION *of the Honorable the Attorney-General with respect to Pre-emptors taking up Land, in addition to their Pre-emptions, under the Land Laws prior to the Act of* 1870.

I understand the question, upon which I am asked to advise, to be this:—

Whether a person who has pre-empted land under the "Land Ordinance, 1865," can, after the 20th October, 1870 (the date at which the "Land Ordinance, 1870," came into force) invoke the assistance of the 20th Section of the former Ordinance, and, by payment of two shillings and one penny per acre, acquire the right to pre-empt and hold a further tract of unsurveyed and unoccupied land contiguous thereto, not exceeding 480 acres, &c., and I am of opinion that he has not that privilege.

As to such claims, if made since the 20th of July, 1871, I have already advised, having regard to the 11th Section of the Terms of Union, and I then had occasion to consider the present question, though it became unnecessary to give any decided opinion upon it.

With respect to the general question, it seems plain that such alleged privileges cannot continue after the 20th October, 1870, unless preserved in "The Land Ordinance, 1870," by the words "but such repeal shall not prejudice or affect any rights acquired," &c., prior to "the passing of this Ordinance;" and the question arises whether such person had, at that date, *acquired a right* within the meaning of those words, and of the 20th Section of the former Ordinance. The words of that section are: "Any person in possession of 160 acres of land aforesaid may acquire the right to pre-empt and hold any further tract of unsurveyed and unoccupied land contiguous thereto, not exceeding 480 acres (and no more either directly or indirectly, save with the express sanction, in writing, of the Governor in that behalf), over and above the quantity of 160 acres aforesaid, upon the payment to the Stipendiary Magistrate of the District, of the sum of two shillings and one penny per acre for the same, as by way of instalment of the purchase money to be ultimately paid to the Government, after the survey of the same land, and, the meaning of "may acquire the right" &c., "upon the payment," &c., appears, from decided cases, as well as the reason of the thing, to be that the acquirement of the right and the payment of the money were to be concurrent acts, or that the pre-emptor might acquire the right upon the occasion or at the time of payment, and not otherwise; and if this be the case, no such right can now exist, except when payments were made or tendered prior to the 20th October, 1870.

Not only does this appear to be the plain grammatical meaning of the words which we are bound to adopt, but an inspection of these two Ordinances, I think, shows that such was the intention of the Legislature.

The words "may acquire the right to pre-empt," are used in the 12th Section of "The Land Ordinance, 1865," where it also seems to be required that the applicant should previously, or at least contemporaneously with his pre-emption, perform certain conditions, and this construction was placed upon a very similar section in the "Vancouver Island Proclamation, 1862," by the Supreme Court of British Columbia, in D. Trimble's case.

Again, in the 10th Section of "The Land Ordinance, 1870," it is provided that "The Chief Commissioner of Lands and Works may," &c., "survey pre-emption claims or purchased lands previous to the date of this Ordinance," but there is silence as to such claims thereafter to be recorded under the 25th Section of "The Land Ordinance, 1865."

And again, in the 25th Section of the Land Ordinance, 1870, it is provided that a person occupying a pre-emption claim to the eastward of the Cascade Range at the date of the framing of that Ordinance, if less than 320 acres, may, with the permission of the Commissioner, pre-empt contiguous land, so as to make the total amount of his claim 320 acres, in language which seems to be scarcely reconcilable with the continuance of a right to pre-empt the additional 480 acres, as prescribed by the said 20th Section.

It is observable that the right contemplated by the said 20th Section was, in the first instance, at most an inchoate right; it was, at any time before its exercise, liable to be defeated by the survey or occupation of the contiguous land. Moreover, as the object of "The Land Ordinance, 1870," was to hand over the Crown Lands of Vancouver's Island to the Legislature, and to require of pre-emptors *bonâ fide* residence, if the Legislature had intended that a pre-emptor under "The Land Ordinance, 1865," should continue to be entitled, after any lapse of time, to obtain, with the consent of the Governor, as much additional contiguous land as he wished, and that without personal residence, I think we should have found in the former Ordinance clear language to that effect.

It may be worthy of consideration whether, inasmuch as a different construction appears to have been placed upon these Ordinances, relief should not be sought from the Legislature, as regards cases where hardship is likely to ensue.

J. F. McCREIGHT,

Attorney-General.

ATTORNEY-GENERAL'S OFFICE, 2nd July, 1872.

Immediately after the said opinion was given the Provincial Government caused the before mentioned purchasers of land to be notified that they would be required to surrender the land purchased by them as aforesaid, and that the Government would refund to them the money paid by them therefor.

The Provincial Government holds itself disabled, by the 11th Article of the Terms of Union, to pass an Act legalizing the purchases made under the circumstances above set forth.

A. ROCKE ROBERTSON,

Chairman.

VICTORIA, 23rd January, 1873.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th October, 1873.

With reference to the Despatch of His Honor the Lieutenant-Governor of the Province of British Columbia, bearing date the 12th day of February last, enclosing

copies of an Address from the Legislative Assembly of that Province, the undersigned has the honor to report:—

That such Address requests the Lieutenant-Governor to recommend to the Government the passage of an Act by the Parliament of Canada legalizing all sales of lands in the Province of British Columbia since the 1st June, 1870.

As the two years within which the Government of British Columbia were, by the Terms of the Union of that Province with Canada, prevented from making any conveyance of land, have expired, there does not seem to be anything now to prevent that Government from granting conveyances to parties who have purchased lands since the 1st June, 1870.

It is, therefore, unnecessary to submit any measure to the Parliament of Canada for that purpose.

All which is respectfully submitted.

JOHN A. MACDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st October*, 1873.

On a Memorandum dated 6th October, 1873, from the Hon. the Minister of Justice, reporting with reference to the Despatch of His Honor the Lieutenant-Governor of the Province of British Columbia, bearing date the 12th day of February last, and enclosing copies of an Address from the Legislative Assembly of that Province;

That such Address requests the Lieutenant-Governor to recommend to the Government of the Dominion the passage of an Act by the Parliament of Canada legalizing all sales of lands in the Province of British Columbia since the 1st June, 1870.

That as the two years within which the Government of British Columbia were, by the Terms of the Union of that Province with Canada, prevented from making any conveyance of land, have expired, there does not seem to be anything now to prevent that Government from granting conveyances to parties who have purchased lands since the 1st June, 1870.

The Minister states that it is, therefore, unnecessary to submit any measure to the Parliament of Canada for that purpose.

The Committee submit the Report of the Minister of Justice for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th March, 1874.

Upon the Despatch of the Lieutenant-Governor of British Columbia, dated 27th February, 1873, transmitting the Acts passed by the Legislature of that Province, and which Acts were received by the Secretary of State at Ottawa on the 4th March, 1873, the undersigned has the honor to report that he considers the Acts mentioned in the annexed Schedule, passed by the Legislature of the said Province of British Columbia in the Second Session thereof, to be free from objection, and he therefore recommends that the same be respectively left to their operation.

SCHEDULE.

Chapters 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42.

A. A. DORION,
Minister of Justice.

MEMORANDUM.—Chapter 23. "An Act to incorporate the Victoria and Esquimalt Railway," contains a suspensory clause restricting its operation until assented to by the Governor General.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 13th March,* 1874.

Upon the Despatch of the Lieutenant-Governor of British Columbia, dated 27th February, 1873, transmitting the Acts passed by the Legislature of that Province, which Acts were received by the Secretary of State at Ottawa on the 14th March.

The Hon. the Minister of Justice, to whom said Despatch, with the Acts, has been referred, reports that he considers the Acts mentioned in the annexed schedule, passed by the Legislature of the said Province of British Columbia in the Second Session thereof, to be free from objection, and he therefore recommends that the same be respectively left to their operation.

The Committee concur in the above recommendation, and advise that the Acts mentioned be left to their operation accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th March, 1874.

Upon the Despatch of the Lieutenant-Governor of British Columbia, dated 27th February, 1873, received by the Secretary of State on the 14th March, the undersigned has the honor to report, that the 2nd Chapter, intituled: "An Act to authorize one Justice of the Peace to do any act, matter or thing heretofore to be done by two Justices of the Peace, and to give an appeal to Courts of General or Quarter Sessions," provides that one Justice of the Peace may act in place of two, and also as to the validity of warrants; and that any person who shall feel himself aggrieved by the judgment of any Justice or Justices adjudicating, or before whom he was convicted, may appeal to the next Court of General or Quarter Sessions of the Peace.

The undersigned has the honor to state that this is Legislation respecting the Law of Criminal Procedure, which appertains solely to the Parliament of the Dominion, and the undersigned recommends, therefore, that the Act in question be disallowed.

A. A. DORION,
Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Friday, 13th day of March, 1874.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 21st day of February, A.D. 1873, pass an Act, which has been transmitted, intituled, as follows, viz.: "An Act to authorize one Justice of the Peace to do any act, matter or thing heretofore to be done by two Justices of the Peace, and to give an appeal to Courts of General or Quarter Sessions;"

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Hon. Minister of Justice, setting forth that he is of opinion that the change of the law proposed in the said Act cannot be legally effected by an Act of the Provincial Legislature, and, therefore, recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 21st day of February, 1873, intituled: "An Act to authorize one Justice of the Peace to do any act, matter or thing heretofore to be done by two Justices of the Peace, and to give an appeal to Courts of General or Quarter Sessions," was received by me on the 14th day of March, 1873.

Given under my hand and seal this 13th day of March, 1874.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th March, 1874.

In further report upon the Despatch of the Lieutenant-Governor of British Columbia, transmitting the Acts passed by the Legislature of that Province in its Second Session, the undersigned has the honor to report upon the following Acts:—

Chap. 1. "An Act to amend the Land Ordinance Act, 1870."

Chap. 3. "An Act to amend the Mineral Ordinance, 1869."

Chap. 4. "An Act to amend the Gold Mining Ordinance, 1867, and the Gold Mining Amendment Act, 1872."

These Acts are respectively reserved as to their operation, either by express enactment or in effect, until the 21st day of July, 1873, and that date is evidently fixed as being at the expiration of the period of two years, by which, under the terms under which British Columbia entered the Union, land was to be reserved by the

Government of British Columbia from sale, with a view to setting apart such lands as are requisite for the Canadian Pacific Railway. As such period of two years expired on the 21st July, 1873, the Province had power to pass laws and make other arrangements for the sale of their lands, and there is, therefore, no objection to the passage of these Acts; and the undersigned has the honor to recommend, therefore, that they be left to their operation.

But he suggests that communication be had with the Lieutenant-Governor of British Columbia, calling his attention to the practical inconvenience which must ensue to the Government of Canada and British Columbia, if land be sold by the Province on any portion of the line which may hereafter be selected as that of the Pacific Railway, and that his consideration be requested to the propriety of withholding from sale, or rights of pre-emption, lands which, in so far as surveys have been heretofore made, can possibly be contiguous to the line of railway, if any one of such surveys be adopted.

A. A. DORION,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 13*th March*, 1874.

Upon the Despatch of the Lieutenant-Governor of British Columbia, transmitting the Acts passed by the Legislature of that Province in its Second Session, the Hon. the Minister of Justice, to whom said Despatch, with the Acts, has been referred, reports upon the following Acts, as follows:—

Chapter 1. An Act to amend "The Land Ordinance, 1870."

Chapter 3. An Act to amend "The Mineral Ordinance, 1869."

Chapter 4. An Act to amend "The Gold Mining Ordinance, 1867," and the "Gold Mining Amendment Act, 1872."

These Acts are respectively reserved as to their operation either by express enactment or in effect, until the 21st day of July, 1873, and that date is evidently fixed as being at the expiration of the period of two years by which, under the terms under which British Columbia entered the Union, lands were to be reserved by the Government of British Columbia from sale, with a view to setting apart such lands as are requisite for the Canadian Pacific Railway. As such period of two years expired on the 21st July, 1873, the Province had the power to pass laws and make other arrangements for the sale of their lands, and there is, therefore, no objection to the passage of these Acts; and the Minister recommends, therefore, that they be left to their operation.

But he suggests that communication be had with the Lieutenant-Governor of British Columbia, calling his attention to the practical inconvenience which must ensue to the Governments of Canada and British Columbia, if land be sold by the Province on any portion of the line which may hereafter be selected as that of the Pacific Railway, and that his consideration be requested to the propriety of withholding from sale, or rights of pre-emption, lands which, in so far as surveys have been heretofore made, can possible be contiguous to the line of railway, if any one of such surveys be adopted.

The Committee recommend that the foregoing Report of the Minister of Justice be approved and acted on.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

BRITISH COLUMBIA, 37TH VICTORIA, 1873-74.

3RD SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th January, 1875.

The undersigned, to whom is referred copies of the Statutes of the Legislature of British Columbia, passed in the Session held in the 37th year of Her Majesty's reign, has the honor to report:—

That the following Acts appear unobjectionable, and he recommends that they be left to their operation, viz.:—

Nos. 1, 3, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.

H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the 23rd January*, 1875.

The Committee have had before them the Memorandum hereunto annexed, from the Honorable the Minister of Justice, to whom was referred copies of the Statutes of the Legislature of British Columbia, passed in the Session held in the 37th year of Her Majesty's reign; and they respectfully advise, as therein recommended, that the following Chapters of the Statutes referred to be left to their operation, that is to say: Chapters 1, 3, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 19th January, 1875.

The undersigned has the honor to report:—

That the Act passed by the Legislature of the Province of British Columbia, in the 37th year of Her Majesty's reign, and assented to on the 2nd March, 1874, is the following:—No. 2, intituled: "An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia."

The title of the Act explains its object. It is a consolidation of the Laws relating to the recording and pre-emption of lands, the surveying and sale of them; the regulation of miners' rights, &c.

By its concluding section, the Act is not to come into force, until the Lieutenant-Governor's assent thereto has been proclaimed by notice in the British Columbia *Gazette*.

The 2nd, or Interpretation Clause, defines that the words "'Crown Lands' shall "mean all lands of this Province held by the Crown in free and common soccage."

It is probably through inadvertence that this definition has been made, and that the tenure of free and common soccage, which is that of freehold under grant from the Crown, is made applicable to lands of the Crown held as such by the Crown as Lord of the soil.

Were it an intentional definition, it could only then mean a recognition of the Indian sovereignty therein, and that Her Majesty is tenant by freehold.

Abandoning, therefore, this statutable definition, which is inapplicable, the words "Crown Lands," may, for the purpose of this memorandum, be considered to mean all lands in the Province vested in the Crown of which no grant had been made.

A distinction is made between "unsurveyed land" and "surveyed land."

As to "unsurveyed land," it provides that any person qualified under that section may record any tract of unoccupied, unsurveyed and unreserved Crown Lands (not being an Indian settlement) not exceeding the extent mentioned;

"Provided that such right shall not be held to extend to any of the Aborigines of this Continent, except to such as shall have obtained permission in writing to so record by a special order of the Lieutenant-Governor in Council."

The record is done by staking and marking out the boundaries of claim, and making a declaration in respect thereof.

As to "surveyed land," it is defined by 23rd Section.

A provision is made by the 24th Section as to who may pre-empt any tract of surveyed, unreserved, unoccupied and unrecorded land (not being an Indian settlement) and a similar proviso to that above mentioned prohibits the aborigines of the Continent the right of pre-emption, except as before mentioned.

Such persons as pre-empt are known as "home settlers."

The undersigned deems it proper to notice that there is not in this Act any reservation of lands in favor of the Indians or Indian Tribes of British Columbia; nor are the latter thereby accorded any rights or privileges in respect to lands, or reserves, or settlements.

On the contrary, the right to record unsurveyed land, or to pre-empt surveyed land, is expressly enacted not to extend to any of the Aborigines, except such as shall have obtained permission in writing of the Lieutenant-Governor in Council.

Nor can the undersigned find that there is any Legislation in force in British Columbia which provides reservations of lands for the Indians, the only Ordinance in that respect being one of the 15th March, 1869, which speaks of Crown Lands in the Colony being Indian Reserves or settlements.

The undersigned refers to the Order in Council, under which the Province of British Columbia was admitted into the Dominion, and particularly the 13th Section as to the Indians, which is as follows:—

"The charge of the Indians and the trusteeship and management of the lands "reserved for their use and benefit, shall be assumed by the Dominion Government, "and a policy as liberal as that hitherto pursued by the British Columbia Govern-"ment shall be continued by the Dominion Government after the Union. To carry "out such policy, tracts of land of such extent as it has hitherto been the practice of "the British Columbia Government to appropriate for that purpose, shall from time "to time be conveyed by the Local Government to the Dominion Government in "trust for the use and benefit of the Indians on application of the Dominion Govern-"ment; and in case of disagreement between the two Governments respecting the "quantity of such tracts of land to be so granted, the matter shall be referred for the "decision of the Secretary of State for the Colonies."

The question as to the provision which has been made of reserves for the Indians has been the subject of an Order of the Governor General in Council, dated 4th November, 1874, and it is not necessary, therefore, to enter upon a discussion of the merits of the case.

But having regard to the known, existing and increasing dissatisfaction of the Indian Tribes of British Columbia at the absence of adequate reservations of lands for their use, and at the liberal appropriation for those in other parts of Canada upon surrender by Treaty of their territorial rights, and the difficulties which may arise from the not improbable assertion of that dissatisfaction by hostilities on their part, the undersigned deems it right to call attention to the legal position of the public lands of the Province.

The undersigned believes that he is correct in stating, that with one slight exception as to land in Vancouver Island surrendered to the Hudson's Bay Company, which makes the absence of others the more remarkable, no surrender of lands in that Province have ever been obtained from the Indian tribes inhabiting it, and that any reservations which have been made, have been arbitrary on the part of the Government, and without the assent of the Indians themselves, and though the policy of obtaining surrenders at this lapse of time and under the altered circumstances of the Province, may be questionable, yet the undersigned feels it his duty to assert such legal or equitable claim as may be found to exist on the part of the Indians.

There is not a shadow of doubt, that from the earliest times, England has always felt it imperative to meet the Indians in Council, and to obtain surrenders of tracts of Canada as from time to time such were required for the purposes of settlements.

The 40th Article of the Treaty of capitulation of the City of Montreal, dated 8th September, 1760, is to the effect that,

"The savages or Indian allies of His Most Christian Majesty shall be maintained in the lands they inhabit if they chose to remain there."

The proclamation of King George III, 1763, erecting within the countries and islands ceded and confirmed to Great Britain by the Treaty of the 10th February, 1763, four distinct Governments, styled Quebec, East Florida, West Florida and Grenada, contains the following clauses:—

"And whereas, it is just and reasonable and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories, as not having been ceded to us, are reserved to them, or any of them as their hunting grounds; we do, therefore, with the advice of our Privy Council, declare it to be our royal will and pleasure that no Governor or Commander-in-Chief, in any of our colonies of Quebec, East Florida or West Florida, do presume upon any pretense whatever to grant warrants of survey or pass any patents for lands beyond the boundaries of their respective Governments, as described in their commissions; as also, that no Governor or Commander-in Chief of our other colonies or plantations in America, do presume for the present and until our future pleasure be known, to grant warrants of survey or pass any patents for lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north-west; or upon any lands whatever, which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians, or any of them; and we do further declare it to be our royal will and pleasure, for the present, as aforesaid, to reserve under our sovereignty, protection and dominion, for the use of the said Indians, all the land and territories not included within the limits, and territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the West and North-West as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatsoever, or taking possession of any of the lands above reserved without our special leave and license for that purpose first obtained. And we do further strictly enjoin and require all persons whatsoever, who have either wilfully or inadvertently seated themselves upon any land within the countries

above described, or upon any other lands, which not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

"And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly enjoin and require that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our Colonies where we had thought proper to allow settlements; but if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or Commander-in-Chief of our Colony, respectively within which they shall be; and in case they shall be within the limits of any proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose; and we do, by the advice of our Privy Council, declare and enjoin that the trade with the said Indians shall be free and open to all our subjects whatever; provided that every person who may incline to trade with the said Indians do take out a license for carrying on such trade from the Governor or Commander-in-Chief of any of our Colonies, respectively, where such person shall reside, and also give security to observe such regulations as we shall at any time think fit, by ourselves or commissaries to be appointed for this purpose, to direct and appoint for the benefit of the said trade; and we do hereby authorize, enjoin and require the Governors and Commanders-in-Chief of all our Colonies, respectively, as well as those under our immediate Government, as those under the Government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such license shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to prescribe as aforesaid.

"And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of the Indian affairs within the Territories reserved, as aforesaid, for the use of the said Indians, to seize and apprehend all persons whatever who, standing charged with treason, misprison of treason, murder or other felonies or misdemeanors, shall fly from justice and take refuge in the said Territory, and to send them under a proper guard to the Colony where the crime was committed of which they shall stand accused, in order to take their trial for the same."

It is not necessary now to enquire whether the lands to the West of the Rocky Mountains, and bordering on the Pacific Ocean, form part of the lands claimed by France, and which, if such claim were correct, would have passed by cession to England under the Treaty of 1763, or whether the title of England rests on any other ground; nor is it necessary to consider whether that proclamation covered the land now known as British Columbia.

It is sufficient, for the present purposes, to ascertain the policy of England in respect to the acquisition of the Indian territorial rights, and how entirely that policy has been followed to the present time, except in the instance of British Columbia.

It is true, also, that the Proclamation of 1763, to which allusion has been made, was repealed by the Imperial Statute 14 George III, Chapter 83, known as "The Quebec Act;" but that Statute merely, so far as regards the present case, annuls the Proclamation, "so far as the same relates to the Province of Quebec, and the Commission and the authority thereof, under the authority whereof the Government of the said Province is at present administered," and the Act was passed for the purpose of effecting a change in the mode of the Civil Government of the administration of justice in the Province of Quebec.

The Imperial Act, 1821, 1st and 2nd George IV, Chap. 66, for regulating the Fur Trade and establishing a Criminal and Civil jurisdiction within certain parts of North America, legislates expressly in respect to the portion of this Continent which is therein spoken of as "the Indian Territories," and by the Imperial Act, 1849, 12 and 13 Vic., Chap. 48, "An Act to provide for the administration in Vancouver's Island." The last-mentioned Act is recited, and it is added on recital that "for the purpose of the colonization of that part of the said Indian Territories called Vancouver's Island, it is expedient that further provision should be made for the administration of justice therein."

The Imperial Act, 1858, 21 and 22 Vic., Chap. 98, "An Act to provide for the government of British Columbia," recites, "that divers of Her Majesty's subjects and others have, by the license and consent of Her Majesty, resorted to and settled on certain wild and unoccupied Territories on the north-west coast of North America, now known as 'New Caledonia,' from and after the passing of the Act to be named British Columbia, and the Islands adjacent," &c.

The determination of England, as expressed in the Proclamation of 1763, that the Indians should not be molested in the possession of such parts of the Dominions and Territories of England as, not having been ceded to the King, and reserved to them, and which extended also to the prohibition of purchase of lands from the Indians, except only to the Crown itself—at a public meeting or assembly of the said Indians to be held by the Governor or Commander-in-Chief—has, with slight alteration, been continued down to the present time, either as the settled policy of Canada or by Legislative provision of Canada to that effect, and it may be mentioned that in furtherance of that policy, so lately as in the year 1874, treaties were made with various tribes of Indians in the North-West Territories, and large tracts of lands lying between the Province of Manitoba and the Rocky Mountains were ceded and surrendered to the Crown, upon conditions of which the reservation of large tracts for the Indians and the granting of annuities and gifts annually formed an important consideration; and, in various parts of Canada, from the Atlantic to the Rocky Mountains, large and valuable tracts of land are now reserved for the Indians, as part of their consideration of their ceding and yielding to the Crown their territorial rights in other portions of the Dominion.

Considering, then, these several features of the case, that no surrender or cession of their territorial rights, whether the same be of a legal or equitable nature, has been ever executed by the Indian tribes of the Province—that they allege that the reservations of land made by the Government for their use have been arbitrarily so made, and are totally inadequate to their support and requirements, and without their assent—that they are not averse to hostilities in order to enforce rights which it is impossible to deny them, and that the Act under consideration not only ignores those rights, but expressly prohibits the Indians from enjoying the rights of recording or pre-empting lands, except by consent of the Lieutenant-Governor;—the undersigned feels that he cannot do otherwise than advise that the Act in question is objectionable, as tending to deal with lands which are assumed to be the absolute property of the Province, an assumption which completely ignores, as applicable to the Indians of British Columbia, the honor and good faith with which the Crown has, in all other cases, since its sovereignty of the Territories in North America, dealt with their various Indian tribes.

The undersigned would also refer to the British North America Act, 1867, Section 109, applicable to British Columbia, which enacts in effect that all lands belonging to the Province shall belong to the Province, "subject to any trust existing in respect thereof, and to any interest, other than that of the Province, in the same."

That which has been ordinarily spoken of as the "Indian Title" must, of necessity, consist of some species of interest in the lands of British Columbia.

If it is conceded that they have not a freehold in the soil, but that they have an usufruct, a right of occupation, or possession of the same for their own use, then it would seem that these lands of British Columbia are subject, if not to a "trust

existing in respect thereof," at least " to an interest other than that of the Province alone."

The undersigned, therefore, feels it incumbent on him to recommend that this Act should be disallowed, but suggests that such disallowance be postponed until the last day at which such can take place, with a view of communication on the subject with the Lieutenant-Governor of British Columbia.

It may be anticipated that no practical inconvenience can arise from its disallowance, should such be necessary, as the previously existing Crown Land Act will probably suffice to enable the Province to continue, in the meantime, disposal of lands.

The undersigned, whilst commenting on this Act, deems it also expedient to call attention to that provision of the Order in Council under which the Province of British Columbia entered Confederation, which refers to the conveyance by the Province to the Dominion Government, in trust, of public lands along the line of the Pacific Railway, throughout the entire length of British Columbia. It may, of course, be argued that there has been no actual commencement, within two years of the date of Union, of the Pacific Railway ; but having regard to the practical commencement of that work in the surveys which have been made along different portions of the contemplated route, the undersigned deems it his duty to note that no reservations are made in the Act now under consideration, and that, without them, the recording and pre-emption of lands under this Act might be the subject of great embarrassment to the Government of Canada, in the construction of the line or in the granting of any contracts for construction of portions of it.

He suggests, therefore, that this is a further subject on which it is desirable that communication should be had with the Lieutenant-Governor of British Columbia.

H. BERNARD,
Deputy Minister of Justice.

I concur.
T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General on the 23rd January*, 1875.

The Committee of the Privy Council have had under consideration the Report, hereunto annexed, from the Honorable the Minister of Justice, to whom was referred, with the other Acts passed by the Legislature of the Province of British Columbia, in the 37th year of Her Majesty's reign, the following Act, which was assented to by the Lieutenant-Governor on the 2nd March, 1874, viz., No. 2, intituled : " An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia," and they respectfully submit their concurrence in the views and recommendations set forth in the said Report, and advise that a copy thereof be transmitted to the Right Honorable Her Majesty's Secretary of State for the Colonies, and to the Lieutenant-Governor of British Columbia.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th March, 1875.

The undersigned has the honor to report, with reference to the Order in Council of the 23rd January last, upon the subject of an Act passed by the Legislature of the

Province of British Columbia as to the Crown Lands in that Province, and to the proposed disallowance of that Act, that the time has come when it is necessary to take the step proposed.

The undersigned has, therefore, for reasons stated in that Order in Council, the honor to recommend that the Act of the Legislature of British Columbia, passed in the 37th year of Her Majesty's reign, and assented to on the 2nd March, 1874, and intituled : " An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia," be disallowed by your Excellency in Council.

T. FOURNIER,

Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 16th day of March, 1875.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of the said Province, did, on the 2nd day of March, 1874, pass an Act, which has been transmitted, intituled : " An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia ; "

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General ;

His Excellency the Governor General has, therefore, this day, been pleased, by and with the advice of His Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,

Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 2nd day of March, 1874, intituled : " An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia," was received by me on the 26th day of March, 1874.

Given under my hand and seal this 16th day of March, 1875.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th January, 1875.

Upon the Acts passed by the Legislature of British Columbia in the 37th year (1874) of Her Majesty's reign, the undersigned has the honor further to report as

follows :— No. 4. " An Act to extend the provisions of the 'Coroners' Jury Act, 1866,' to the Mainland of British Columbia.'" This Act extends over the whole of the Province of British Columbia—the " Coroners' Jury Act, 1866," passed in the late Colony of Vancouver's Island.

Having reference to that Act, it is found to give power to any Coroner to impanel a jury of not less than six for the purposes of any inquisition, their powers and verdict being to all intents and purposes as effectual as if found by a jury consisting of twelve or more.

The undersigned is somewhat doubtful whether this may not be a branch of criminal procedure, and, as such, within the sole legislative competence of the Parliament of Canada. He does not propose, however to do more than make this suggestion.

No. 12. " An Act to make better provisions for the Qualification and Registration of Voters."

Section 15 speaks of a conviction of an " offence." This seems to imply a crime and, therefore, a subject of Criminal Law. In this view, it may be desirable to avoid the use of the word " offence."

H. BERNARD,
Deputy Minister of Justice.

I concur.
T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 16*th March,* 1875.

The Committee of the Privy Council have had under consideration the Report, hereunto annexed, from the Honorable the Minister of Justice, to whom were referred —with the other Acts passed by the Legislature of the Province of British Columbia, in the 37th year (1874) of Her Majesty's reign—the following Acts, viz., No. 4, intituled : " An Act to extend the provisions of the Coroners' Jury Act, 1866, to the Mainland of British Columbia;" and No. 12, intituled : " An Act to make better provisions for the Qualification and Registration of Voters;" and they respectfully submit their concurrence in the views and recommendations set forth in their said Report, and advise that a copy thereof be transmitted to the Lieutenant-Governor of British Columbia.

Certified.
W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Pemberton to the Minister of Justice.

VICTORIA, BRITISH COLUMBIA, 23rd April, 1874.

SIR,—I have the honor to forward herewith a Memorial from the County Court Judges of British Columbia, with a request from them that you will be good enough to lay it before His Excellency the Governor General. It has been signed by all the Judges, except Mr. Saunders, who is absent on leave.

I have, &c.,
A. F. PEMBERTON,
County Court Judge.

The Honorable
The Minister of Justice.

Memorial of the County Court Judges.

To His Excellency The Right Honorable the Earl of Dufferin, K.P., K.C.B., Governor General of the Dominion of Canada, &c.

The humble memorial of the County Court Judges in the Province of British Columbia,—SHEWETH:

That in view of the reference made to His Excellency the Governor General, of the question as to the position and proper duties of the County Court Judges of British Columbia by the Government of this Province, and with particular reference to the Report (therewith transmitted) of the opinion of the Attorney-General on this subject, published in the Government *Gazette* of the 2nd of August, 1873 and further, with regard to the Act of last Session, intituled: "The County Courts Extension Act, 1874," the County Court Judges deem it due to themselves to make the following representations which they beg most respectfully to submit for the consideration of His Excellency the Governor General:—

That the services in the Colony averaged over twelve years before the Confederation of the Province with the Dominion, in July, 1871, as has been most particularly detailed in Reports from each County Court Judge, forwarded by His Honor the Lieutenant-Governor to the Secretary of State for the Provinces in 1872;

That Confederation was purely a Government measure, and that the above Officers formed a large proportion of the members of the Legislative Council; that without their votes that measure could not have been passed; that they were led to vote for that measure solely at the instance of the then Governor, Mr. Musgrave, on the distinct and repeated assurance from him, as the representative of the Queen, that under the terms of Confederation they would be placed in the permanent service of the Dominion Government as County Court Judges, and be totally independent of, and without the control of the Provincial Government;

That Mr. Musgrave further assured them that in the event of their positions being filled by Barristers, pensions, at the rate of two-thirds of their salaries, or appointments of equivalent positions and emoluments would be granted to them;

That a Memorial from these Officers to the Secretary of State was withdrawn, after repeated assurances having been given to them by Governor Musgrave to the above effect;

That Mr. Musgrave stated to your Memorialists that, in his Despatch of the 22nd November, 1870, to the Dominion Government, he had distinctly laid down the position to be held by the County Court Judges after Union to the above effect, and that the same had been confirmed by the Secretary of State for the Colonies, Lord Kimberley, as binding on the Dominion Governement, in his Despatch of the 3rd of June, 1871;

That Mr. Musgrave told them that they might be expected to continue for a while to perform the various duties hitherto discharged by them in their respective districts, during the transition of the Provinces from the Colonial to the Provincial system of Government, and in the Session of 1872 provision was accordingly made for the appointment of certain Officers, entitled Clerks of the Bench, and that such Officers, were, in the spring of that year, appointed, and relieved the County Court Judges from their local functions, taking over their books of account, cash balances, &c.;

That they were always informed that the Dominion Government objected to their Officers doing local work;

That the other officers whose positions were affected by Confederation had the option of retiring or taking office under the Dominion, whereas the County Court Judges had no such option;

That, in regard to the County Court Extension Act, 1874, they respectfully submit that, under Section 92, Sub-section 14, of the British North America Act, 1867, the Local Legislature had not jurisdiction to pass a measure authorizing the Local Government to require that any particular County Court Judge should reside in any

particular place, or even that he should hold any particular Court, inasmuch as all are County Court Judges having jurisdiction over the entire Province;

If the Local Legislature have the power to which they lay claim, it would follow that they have in substance power to appoint that any of the County Court Judges of the Province shall be the County Court Judge for a particular District, a power of appointment which belongs alone to the Governor General; and inspection of Section 92, Sub-section 14, and Section 96 of British North America Act, shows that the Local Legislature have jurisdiction only over Courts, but have no authority in reference to the appointment of the Judges who sit in those Courts; it may be that such power of control by the Local Government over the individual Judges of the County Court, carrying with it the power of rewarding such Judges as may be favored by the Ministry of the day by transferring them to more agreeable or advantageous posts, or visiting displeasure upon others by ordering them to the more rugged and inhospitable districts of the interior, thus assuming, in fact, a patronage which cannot be properly intended to be conferred on them, is incompatible with a continued faithful and unbiassed discharge by the County Court Judges of their judicial functions;

That such power would in no way secure a more efficient performance of the County Court business, or afford any further facilities to suitors than are already given; the only effect intended to be obtained would seem to be the presence of County Court Judges in the more remote parts of the Province to afford moral support to the maintenance of law and order, a responsibility specially attached to the Provincial Government, but of which they would thus be relieved at the expense of the Dominion;

That in many instances it will be difficult for a County Count Judge to discharge his duties with satisfaction to the Dominion Government, if, at the same time, he is subject to the order of the Lieutenant-Governor, as regards local duties even as representing the Federal authority; that Officer may find himself in the anomalous position of having to refuse to act on the advice of his responsible Ministers in the often recurring case of the County Court Judges being asked to discharge local duties, which they may consider incompatible with their Federal duties. It is needless to observe that there will be a constant tendency in a Local Government, for their own convenience, to require such Officers to discharge duties by no means compatible with the position of a County Court Judge.

That it is submitted that in no other instance, and in no other portion of the Dominion, can a Federal Officer be asked to discharge merely local duties, and the late Government of British Columbia made provision for the discharge of the local duties accordingly, by the appointment of Clerks of the Bench.

And your memorialists, as in duty bound, will ever pray, &c.

A. F. PEMBERTON,
P. O'REILLY,
ARTHUR T. BUSHBY,
HENRY MAYNARD BALL.
JAMES R. SPALDING.

VICTORIA, BRITISH COLUMBIA,
23rd April, 1874.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th March, 1875.

Upon an Act passed by the Legislature of British Columbia on the 2nd March 1874, Chapter 9, intituled: "An Act to make provision for the better Administration of Justice."

The undersigned has the honor to report :—

That this Act enables the Lieutenant-Governor in Council from time to time, to appoint the times and places at which County Courts shall be held, and to order any County Court Judge to hold such Court at such times and places as may be appointed, and to appoint the places at which such County Court Judge shall reside from time to time. A petition is presented against this Act by the several County Court Judges. The petition sets forth at length the circumstances connected with their position.

It is not, however, necessary to enter upon the consideration of the statements further than upon the following point :—The petitioners submit that under Section 92, Sub-Section 14, of the British North America Act, 1867, the Local Legislature had not jurisdiction to pass a measure authorizing the Local Government to require that any particular County Court Judge should reside in any particular place, or even that he should hold any particular Court, inasmuch as all are County Court Judges, having jurisdiction over the entire Province.

They further allege that that Act, in substance, confers on the Local Legislature power to appoint any County Court Judge for a particular District, a power of appointment which belongs alone to the Governor General, and that any such power of control by the Local Legislature carries with it the power of rewarding such Judges as may be favored by the Ministry of the day, by transferring them to more agreeable posts, or visiting displeasure upon them by ordering them to the inhospitable districts of the interior ; all which is incompatible with a continued faithful and unbiassed discharge by the County Court Judges, of their judicial functions.

They urge that in no other portion of the Dominion, can a Federal Officer be asked to discharge merely local duties.

The question, therefore, for consideration is as to the competency of the Legislature of British Columbia to pass the law to which reference is now made.

The position of the County Court Judges appears to be this :

An Ordinance was passed in 1867, under which the Governor of British Columbia might appoint any Stipendiary Magistrate or Justices of the Peace in the Colony to be County Court Judges, either for the whole Colony, or for such parts thereof as he shall from time to time in that behalf, direct or appoint ; a provision which was repealed by "the County Court Judges, Appointment Act, 1872," but which repeal does not affect the County Court Judges in question or their jurisdiction.

In a Despatch of March, 1872, Lieutenant-Governor Trutch stated that an Address of the Assembly asked him to move the Government of Canada, to appoint Barristers or other legal men as County Court Judges in place of the then incumbents of those offices, who were not professionally qualified, and the Minute of the Executive Council asked the Dominion Government to appoint not less than three competent County Court Judges for the Province as soon as practicable.

In November, 1872, Lieutenant-Governor Trutch alluding to an Act just then passed, called "the County Court Judges Appointment Act, 1872," expressed the views of his Government that the Province should be divided into five County Court Districts as defined in the Minute and map of British Columbia, which was enclosed, and that a duly qualified member of the legal profession should be appointed for each such District.

No action however was taken upon it, the division of County Court Districts not being the duty of Canada.

The condition of matters as existing, prior and up to Confederation, has since been and still is in force, except as modified by the Local Act of 1872.

In 1876, the Civil List Act of Canada was amended by 35th Vic., Chap. 3, which provided for the salaries in respect of these Stipendiary Magistrates or County Court Judges, as follows ; the sums being those of which they were in receipt as their annual salaries at the time of Confederation, namely :—

One Stipendiary Magistrate for Victoria		$2,250	per annum
"	"	New Westminster	2,425	"
"	"	Cariboo	3,400	"
"	"	Yale	3,000	"

One Stipendiary Magistrate for Lillooet and Clinton..... $2,400 per annum.
" " Nanaimo and Coast ..... 2,250 "
so long as each of the Stipendiary Magistrates, respectively, retains the office of County Judge."

The Act now under consideration has three features :

1st That the Lieutenant-Governor in Council may from time to time appoint the times and places at which County Courts shall be held, and may,

2nd Order any County Court Judge to hold such Court, and at such times and places as may be appointed, and

3rd May appoint the places at which such County Court Judge shall reside from time to time.

To the first of these, there appears to be no objection; it concerns the administration of Justice, and is part of the constitution of a Provincial Court, and, therefore, within Local Legislative competence.

As to the second, it may be remarked that so long as the County Court Judges, as is the case with the present incumbents, have jurisdiction over the whole of the Province, there can be no objection to the temporary performance of duties, by the Judge assigned to one District of those of another District; but unless any special and good cause be shown to the Government of Canada, for such temporary transfer of duty, the undersigned considers that the Dominion cannot be required to pay travelling expenses so incurred.

It may, however be doubted whether the words "any County Court Judge" would be applicable to any future appointments, which would probably be made for special Districts when laid out by the Local Government.

The Act under consideration must also be viewed in respect to travelling allowances.

No fixed sum has been set apart for such purposes, but such as have been incurred, have been paid.

The subject of these travelling allowances will form, it is proposed, the subject of a separate memorandum, but the undersigned may here remark that he is of opinion that such should be guided by this rule, viz., that, taking the name of the Judge in connection with the District for which he was acting as Judge at the time of the Union, with reference also to his place of residence in such District, or, if not resident therein, then that of such place as would reasonably be his place of residence, travelling allowances be given, as from thence to the Courts in his District, either at a fixed scale per diem or an annual sum.

As to the third point, the undersigned feels much difficulty. The appointment of a Judge is vested in the Governor General. To authorize such an appointment there must be a duly constituted Court, or due provisions made for the administration of Justice, and these may, by local enactment, from time to time, be varied.

As to the position of these County Court Judges at the time of Confederation, they appear to stand as follows :—

Name.	Date of Appointment.	Name of present District.	Salary.
			$ cts.
A. T. Bushby.....	April, 1870...	New Westminster.....	2,425 00
W. R. Spalding.....	June, 1867...	Nanaimo and Comox....	2,250 00
T. O'Reilly...	June, 1871...	Northern Gold Mines, to Omimica (*i.e.* Yale)...	3,000 00
A. T. Pemberton...	June, 1858...	Victoria.....	2,250 00
A. E. H. Saunders.....	June, 1859...	Lillooet.....	2,400 00
H. M. Ball.....	June, 1870...	Cariboo	3,400 00

By reference to the Act of Canada of 1872, 35 Vic., Chap. 20, salaries were assigned in different proportions to the Stipendiary Magistrates (otherwise County Court Judges) for certain Districts by name, being those above mentioned.

It appears, therefore, that the County Court Judges, though having under their original appointment, jurisdiction over the whole Province, have been hitherto assigned and appointed to certain specific Districts, being in fact the Electoral Districts of the Province.

So long, therefore, as there is no Legislation by British Columbia altering the limits of these particular Districts, the undersigned is of opinion that the position of these gentlemen as County Court Judges (so called) is unaltered from that at the time of Confederation.

Being now, therefore, in effect County Court Judges for particular Districts, the undersigned is of opinion that the third provision of the Act, authorizing the Lieutenant-Governor to appoint the places at which such County Court Judges shall reside from time to time, is practically assuming a power of appointment of Judges, and he advises that the Act of the Legislature of the Province of British Columbia passed on the 2nd of March, 1874, intituled: "An Act to make provision for the better Administration of Justice," be, therefore, disallowed by Your Excellency in Council.

T. FOURNIER,
Minister of Justice.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 16th day of March, 1875.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of the said Province, did, on the 2nd day of March, 1874, pass an Act which has been transmitted, intituled as follows, viz.:—"An Act to make provision for the better Administration of Justice;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor-General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 2nd day of March, 1874, intituled: "An Act to make provision for the better Administration of Justice," was received by me on the 26th day of March, 1874.

Given under my hand and seal this twentieth day of March, 1875.

DUFFERIN.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 9th March, 1875.

Upon a petition presented by several County Court Judges of British Columbia, praying for the disallowance by the Governor General, of an Act passed by the Legislature of that Province on the 2nd March, 1874, intituled: "An Act to make provision for the better Administration of Justice;"

The undersigned is of opinion that upon due consideration of the circumstances of the case the condition of the County Judges is in no way changed by Confederation except in that their duties have been diminished.

At the time of Confederation, in addition to the duties attached to the office of County Court Judge, they appear to have acted as Gold Commissioners and Indian Agents, in respect of which two latter offices they have not since been called upon to act, and it seems not improbable that there were other duties imposed upon them which they do not now fulfil.

The undersigned cannot see, therefore, that in this respect the County Judges have any reason for complaint.

But in respect to provision of the Act in question which gives the Lieutenant-Governor power to appoint the places at which such County Court Judge shall reside from time to time, the undersigned, in a Report upon the Act itself, has expressed the opinion, that as there are now in effect six particular Districts, the third provision of the Act in question is practically assuming a power of appointment of Judges, and he has, therefore, recommended that the Act should be disallowed.

He recommends that the contents of this Memorandum be communicated to Mr. Pemberton, acting on behalf of the County Judges.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 16*th March*, 1875.

Upon a petition presented by the several County Court Judges of British Columbia, praying for the disallowance by the Governor General, of an Act passed by the Legislature of that Province on the 2nd March, 1874, intituled: "An Act to make provision for the better Administration of Justice;"

The Hon. the Minister of Justice, in a Memorandum dated 9th March, 1875, reports that he is of opinion that, upon due consideration of the circumstances of the case, the condition of the County Court Judges is in no way changed by Confederation, except in that their duties have been diminished.

That at the time of Confederation, in addition to the duties attached to the office of County Court Judge, they appeared to have acted as Gold Commissioners, and as Indian Agents, in respect of which two latter offices they have not since been called upon to act, and it seems not improbable that there were also other duties imposed upon them which they do not now fulfil.

The Minister states that he cannot see, therefore, that in this respect the County Judges have any reason for complaint.

But in respect to the provision of the Act in question which gives the Lieutenant-Governor power to appoint the places at which such County Court Judge shall reside from time to time, the Minister observes that in a Report upon the Act itself, he has expressed the opinion that as there are now in effect six particular Districts, the third provision of the Act in question is practically assuming a power of appointment of Judges, and he has therefore recommended that the Act shall be disallowed.

He recommends that the contents of his Memorandum be communicated to Mr. Pemberton acting on behalf of the County Judges.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Under Secretary Langevin to Mr. Pemberton.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
OTTAWA, 27th March, 1875.

SIR,—I have the honor to inform you that His Excellency the Governor General has had before him in Council, a petition from yourself and other County Court Judges in British Columbia, praying for the disallowance by His Excellency of an Act passed by the Legislature of that Province on the 2nd March, 1874, intituled: "An Act to make provision for the better Administration of Justice."

I am now directed to acquaint you, for the information of the Petitioners, that His Excellency is advised that, upon due consideration of the circumstances of the case, the condition of the County Court Judges is in no way changed by Confederation, except in that their duties have been diminished.

His Excellency is advised that at the time of Confederation, in addition to the duties attached to the office of County Court Judges, they appear to have acted as Gold Commissioners and as Indian Agents, in respect of which two latter offices they have not since been called upon to act, and it seems not improbable that there were other duties imposed upon them which they do not now fulfil.

His Excellency is further advised that in this respect the County Judges can have no reason for complaint, but in respect to the provisions of the Act in question, which give the Lieutenant-Governor power to appoint the places at which such County Court Judges shall reside from time to time, and it appears that there are now in effect six particular Districts; the third provision of the Act is practically assuming a power of appointment of Judges, and His Excellency has therefore been advised to disallow the Act.

The Order of His Excellency in Council, signifying His Excellency's disallowance of the Act has been communicated to His Excellency the Lieutenant-Governor.

I have &c.,

EDOUARD J. LANGEVIN,
Under Secretary of State.

A. F. PEMBERTON, Esq.,
County Court Judge,
Victoria, B. C.

BRITISH COLUMBIA, 38TH VICTORIA, 1875.

4TH SESSION—1ST PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th October, 1875.

Upon the Acts passed by the Legislature of the Province of British Columbia, and assented to by the Lieutenant-Governor on the 22nd April, 1875, the undersigned has the honor to report that the right of disallowance ought not to be exercised in respect to the following Acts, and he, therefore, recommends that they be left to their operation :—

Cap. 8. " An Act respecting injuries caused by animals of a domestic nature."

Cap. 12. " An Act to amend and extend the provisions of the Williams' Creek Flume Ordinance, 1866."

Cap. 9. " An Act to render ineligible as Members of the Provincial Assembly persons accepting, or holding offices, contracts or employment under the Dominion Government."

Cap. 15. " An Act to repeal the Game Amendment Act, 1873."

Cap. 7. " An Act to amend the Schedule of the Constitution Act, 1871."

Cap. 19. " An Act to amend the Corporation of Victoria Waterworks Act, 1873."

Cap. 14. " An Act respecting the Marking of Cattle."

Cap. 4. " An Act respecting the construction of a Graving Dock at Esquimalt, and of Provincial Public Works."

Cap. 1. " An Act to make better provision for the Qualification and Registration of Voters."

Cap. 11. " An Act relating to the Indemnity to Members and the Salary of the Speaker of the Legislative Assembly."

Cap. 16. " An Act for the protection of Lightning Creek Fire Brigade."

Cap. 5. " An Act to authorize the grant of certain Public Lands to the Government of Canada for Railway purposes."

Cap. 10. " An Act to amend the Licenses Ordinance, 1867."

Cap. 17. " An Act to amend the Municipality Act Amendment Act, 1873."

Cap. 3. " An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1875, and for making good certain sums expended in the Public Service in 1874, and for other purposes."

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th October,* 1875.

On a Report, dated 20th October, 1875, from the Hon. the Minister of Justice, upon the Acts passed by the Legislature of the Province of British Columbia and assented to by the Lieutenant-Governor on the 22nd April, 1875, stating that the

right of disallowance ought not to be exercised in respect to the following Acts, and recommending that they be left to their operation :—

No. 8. "An Act respecting injuries caused by animals of a domestic nature."

No. 12. "An Act to amend and extend the Provisions of the Williams' Creek Flume Ordinance, 1866."

No. 9. "An Act to render ineligible as members of the Provincial Assembly, persons accepting or holding offices, contracts or employment under the Dominion Government."

No. 15. "An Act to repeal the 'Game Amendment Act, 1873.'"

No. 7. "An Act to amend the Schedule of the 'Constitution Act, 1871.'"

No. 19. "An Act to amend the Corporation of Victoria Waterworks Act, 1873."

No. 14. "An Act respecting the Marking of Cattle."

No. 4. "An Act respecting the construction of a Graving Dock at Esquimalt, and of Provincial Public Works."

No. 1. "An Act to make better provision for the Qualification and Registration of Voters."

"An Act relating to an Act to make better provision for the Qualification and Registration of Voters."

No. 11. "An Act relating to the indemnity to Members and the Salary of the Speaker of the Legislative Assemby."

No. 16. "An Act for the protection of the Lightning Creek Fire Brigade."

No. 5. "An Act to authorize the grant of certain Public Lands to the Government of the Dominion of Canada for Railway purposes."

No. 16. "An Act to amend the Licenses Ordinance, 1867."

No. 17. "An Act to amend the 'Municipality Act Amendment Act, 1873.'"

No. 3. "An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1875, and for making good certain sums expended in the public service in 1874, and for other purposes."

The Committee advise that the said Acts be left to their operation, as recommended.

Certified.

W. A. HIMSWORTH,

Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th October, 1875.

With reference to the Act passed by the Legislature of British Columbia assented to 22nd April, 1875, intituled: Cap. 5. "An Act to amend and consolidate the laws affecting Crown Lands in British Columbia," the undersigned has the honor to report that this Act is identical with that passed by the same Legislature and assented to on the 2nd March, 1874, under the same title with the following exceptions:

1st. It repeals the Land Act of 1874;

2nd. The definition of Crown Land is altered, the words "in fee simple" being substituted for the words "in free and common soccage";

3rd. The 60th Section provides as follows:

"The Lieutenant-Governor in Council shall at any time by notice signed by the Chief Commissioner of Lands and Works, and published in the British Columbia *Gazette* reserve any lands not lawfully held by record, pre-emption, purchase, lease or Crown grant, for the purpose of conveying the same to the Dominion Government, in trust, for the use and benefit of the Indians, or for Railway purposes as mentioned in Article 11 of the terms of Union, or for such other purposes as may be deemed advisable;" in lieu of the same section of the former Act which reads as follows:

"The Lieut.-Governor in Council shall, at any time and for such purposes as may be deemed advisable, reserve, by notice published in the British Columbia *Gazette*, any lands not lawfully held by record, pre-emption, purchase, lease, or Crown grant."

4th. The provision in the former Act as to the Act not coming into force until proclamation.

The undersigned begs leave to refer to the approved Report of his predecessor upon the subject of the former Act, dated 19th January, 1875, upon which by Order in Council dated 11th March, 1875, that Act was disallowed.

The grave questions arising in that Report, and those under discussion between the two Governments as to the mode of dealing with the Indians are still unsettled: and it appears to the undersigned that the alterations made in this Act are not such as to meet the difficulties which resulted in the disallowance of the former Act.

It may perhaps be hoped that before the time within which the power of disallowance must be exercised this question will be settled; but should that be otherwise, it appears to the undersigned, that the policy and line of agreement which led to the disallowance of the former Act must lead to the disallowance of this one also.

The undersigned recommends that beyond the communication of the views of Council to the Government of British Columbia, no action should be taken in reference to this Act until the last day at which disallowance may take place.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 10th November*, 1875.

Upon a Report dated 30th October, 1875, from the Hon. the Minister of Justice, having reference to the Act passed by the Legislature of British Columbia, assented to on the 22nd April, 1875, and intituled: "An Act to amend and consolidate the laws affecting Crown Lands in British Columbia;"

The Minister states that this Act is identical with that passed by the same Legislature, and assented to on the 2nd March, 1874, under the same title, with the following exceptions:—

1st. It repeals the Land Act of 1874.

2nd. The definition of Crown Lands is altered, the words "in fee simple" being substituted for the words "in free and common soccage."

3rd. The 60th Section provides as follows:

"The Lieutenant Governor in Council shall at any time, by notice signed by the Chief Commissioner of Lands and Works, and published in the British Columbia *Gazette*, reserve any lands, not lawfully held by record, pre-emption, purchase, lease or Crown grant, for the purpose of conveying the same to the Dominion Government, in trust for the use and benefit of the Indians, or for railway purposes, as mentioned in Article 11 of the Terms of Union, or for such other purposes as may be deemed advisable;" in lieu of the same section of the former Act, which read as follows:—

"The Lieutenant-Governor in Council shall at any time, and for such purpose as may be deemed advisable, reserve, by notice published in the British Columbia *Gazette*, any lands not lawfully held by record, pre-emption, purchase, lease or Crown grant."

4th. The provision in the former Act as to the Act not coming into force until proclamation.

The Minister refers to the approved Report of his predecessor upon the subject of the former Act, dated 19th January, 1875, upon which, by Order in Council dated 11th March, 1875, that Act was disallowed.

He observes that the grave questions arising in that Report, and those under discussion between the two Governments as to the mode of dealing with the Indians, are still unsettled; and it appears to him that the alterations made in this Act are not such as to meet the difficulties which resulted in the disallowance of the former Act. That it may, perhaps, be hoped that, before the time within which the power of disallowance must be exercised, this question will be settled; but, should that be otherwise, it appears to him that the policy and line of argument which led to the disallowance of the former Act must lead to the disallowance of this one also.

The Minister recommends that, beyond the communication of the views of the Council to the Government of British Columbia, no action should be taken in reference to this Act until the last day at which disallowance may take place.

The Committee concur in the foregoing recommendation, and submit the same for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th January, 1876.

Upon an Act passed by the Legislature of the Province of British Columbia assented to on the 22nd April, 1875, Chapter 18, intituled: "An Act to make Powers of Attorney valid in certain cases," the undersigned begs to report:—

This Act recites that "difficulties frequently arise, as to titles to lands and other property, by reason of its conveyances, or other instruments, and Acts affecting the same," in certain cases.

After dealing with these cases, and providing for the registration generally of Powers of Attorney, of declarations of the death, bankruptcy, insolvency or marriage of the Principal or the revocation of any such Power of Attorney, the 7th Section provides that "any person who shall wilfully efface, deface, mutilate or destroy any Power of Attorney, declaration or notice, respectively, which shall have been filed under the provisions of this Act shall, upon conviction thereof, be imprisoned with or without hard labor, for any term not exceeding two years."

This section appears to trench upon the provisions of the Criminal Law, and the undersigned suggests that the attention of the Government of British Columbia should be invited to this difficulty, with a view to their considering whether the Act should not be amended before the period arrives for determining as to its disallowance.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th January,* 1876.

The Committee of Council have had under consideration the Memorandum hereunto annexed, from the Hon. the Minister of Justice, having reference to certain provisions of an Act passed by the Legislature of the Province of British Columbia, intituled: "An Act to make Powers of Attorney valid in certain cases," and they respectfully report their concurrence in the recommendation submitted in the said

Memorandum, and advise that a copy thereof, and of this Minute, be transmitted to the Government of British Columbia.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th October, 1875.

Upon an Act passed by the Legislature of British Columbia on the 22nd April, 1875, Chap. 5, intituled: "An Act to make provision for the better Administration of Justice," the undersigned has the honor to report, that this Act enables the Lieutenant-Governor in Council to divide the Province into as many Districts as he may think fit, such Districts to be called County Court Districts, and to define the boundaries thereof, and from time to time to alter and vary the same, and from time to time to appoint the times and places at which County Courts shall be held in such Districts.

An Act upon the same subject was passed by the same Legislature on the 2nd March, 1874, and disallowed under an approved Report by the predecessor of the undersigned, dated 9th March, 1875. To that Report the undersigned refers.

It appears to the undersigned to be important that the Province should be divided for the purposes of County Courts into districts, but having regard to the views expressed in the said approved Report, and considering that the consequence of permitting the Act now under consideration to go into operation would be to permit the Lieutenant-Governor in Council to arrange the boundaries of these Districts and to alter them at his pleasure, and so practically to determine at his pleasure the places within which the County Court Judges should have jurisdiction. It appears to the undersigned that the Act is objectionable, as the alterations thereby authorized might practically result in the appointment by the Local Government of a County Court Judge to a new District or Judgeship, thus transferring to the Local Government, a part of the power of appointment vested in this Government under the Constitution. So long as the Local Legislature keeps within its own hands the division of the Districts and the alteration of their boundaries, this Government has, by virtue of the power of disallowance, some measure of control over such action; but should this Act go into operation no such control could thereafter be exercised here.

The undersigned has been led to believe that it may be important in the peculiar circumstances of the country to make provision for the holding of Courts at places where, owing to the influx of miners and others, a population is suddenly brought together, and in this view, he thinks it would not be objectionable that the Local Legislature should give power to the Lieutenant-Governor in Council from time to time to appoint the times and places at which the County Courts shall be held in the Districts.

The undersigned recommends that it should be suggested to the Government of British Columbia to repeal the Act, and to effect any division of the Province into Districts, and any definition of the boundaries of such districts, which they may think desirable, by Legislation, instead of by the machinery proposed by the Act.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 16th October*, 1875.

On a Report, hereunto annexed, from the Honorable the Minister of Justice, having reference to an Act passed by the Legislature of British Columbia, on the 22nd April, 1875, intituled: "An Act to make provision for the better Administration of Justice," the Committee concur in the views expressed in the said Report, and submit the same for Your Excellency's approval; they advise that a copy of said Report be transmitted to the Lieutenant-Governor of British Columbia for his information.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th April, 1876.

The undersigned begs to report that the Statutes of last Session of British Columbia were received on the 8th May, 1875, and consequently the year within which action must be taken upon them is nearly expired.

The undersigned refers to the Minute in Council of the 16th October, 1875, with reference to the "Act to make provision for the better Administration of Justice," and to the Minute in Council of the 10th November, 1875, with reference to the "Act to amend and consolidate the Laws affecting Crown Lands in British Columbia," and to the Minute in Council of the 7th January, 1876, with reference to the "Act to make Powers of Attorney valid in certain cases," and as no communication of the views or intentions of the Government of British Columbia, with reference to these Acts, has been made to this Government, he recommends that telegraphic communication be had with the Lieutenant-Governor of British Columbia desiring to be informed by telegraph whether it is proposed to take any, and if so, what action, in respect of any of these Acts.

EDWARD BLAKE,
Minister of Justice.

Telegram from Mr. Secretary Scott to the Lieutenant-Governor of British Columbia.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 13th April, 1876.

Dominion Government desires to be informed, by telegraph, whether it is proposed to take any, and, if so, what action, in respect to the Act for the better Administration of Justice, the Act amending Crown Lands Act, and Act making powers of Attorney valid, as year expires shortly.

R. W. SCOTT,
Secretary of State.

To Lieutenant-Governor TRUTCH,
Victoria, British Columbia.

By Telegraph from Victoria, B.C., to Hon. R. W. Scott, Secretary of State.

VICTORIA, B.C., 27th April, 1876.

My Ministers request me to state, in reply to your telegram, thirteenth instant, this Government concurs on disallowance of Act for better Administration of Justice;

general question involved therein now under consideration, and Bill reorganizing system will, if time admits, be submitted to Legislative Council; objections to Act amending Crown Lands Act are considered removed by agreement for settlement of Indian land question by Commissioners; Powers of Attorney Act will be immediately amended to remove objections to Section seven.

JOSEPH W. TRUTCH,
Lieutenant-Governor.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 27th April, 1876.

SIR,—I have the honor to enclose herewith a Minute of my Executive Council, together with a transcript of a telegraphic despatch which, in accordance therewith, I have this day addressed to you in reply to your telegram to me of the 13th April, and stating the views of this Government as to the several Acts of the last Session of the Legislature of this Province therein referred to.

I have, &c.,
JOSEPH W. TRUTCH,
Lieutenant-Governor.

The Honorable
The Secretary of State for Canada.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor on the 20th day of April,* 1876.

Referring to the telegram from the Secretary of State for Canada of the 13th inst., submitted by Your Excellency for consideration in Executive Council, the Committee of Council respectfully request that you will be pleased to reply thereto by telegraph to the following effect:—

"That this Government concurs in the disallowance of the Act for the better Administration of Justice; that the general question involved therein is under consideration, and if time admit, a Bill reorganizing the system will be submitted to the Legislative Assembly.

"That the objections to the Act amending the Crown Lands Act are considered to be removed by the agreement for the settlement of the Indian land question by Commissioners, and that the Power of Attorney Act will be immediately amended so as to remove objections to Section 7."

Certified.
T. BASIL HUMPHREYS,
Minister of Finance and Clerk of Executive Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 28th April, 1876.

With reference to the Acts of British Columbia assented to on the 22nd April, 1875, the time for action upon which will expire on the 8th May next, the undersigned begs to report as follows:—

1. By Minute in Council of the 16th October, 1875, the Report of the undersigned upon the Act Chapter 5, intituled: "An Act to make provision for the better Administration of Justice," was approved.

A copy of that Minute was transmitted to the Lieutenant-Governor of British Columbia.

The views of the Government of British Columbia not having been communicated to His Excellency, the Secretary of State recently asked for a telegraphic communication upon the subject.

By telegraph, dated 27th April, from the Lieutenant-Governor to the Secretary of State, he is informed that the Government of British Columbia concurs in the disallowance of the Act for the better Administration of Justice; that the general question involved therein is now under consideration, and a Bill reorganizing the system will, if time admit, be submitted to the Legislature.

The Report of the undersigned proposed that it should be suggested to the Government of British Columbia to repeal the Act, and to effect the division of the Province into Districts, &c., by Legislation, instead of by the machinery proposed by the Act.

As the Provincial Government suggests the exercise of the power of disallowance, and it is not certain whether amendatory legislation will be had this Session, the undersigned recommends that the said Act be disallowed.

2. By Minute in Council of the 10th November, 1875, the Report of the undersigned upon the Act, intituled: "An Act to amend and consolidate the Laws respecting Crown Lands in British Columbia," was approved.

The same steps were subsequently taken upon this subject, as those detailed with reference to the subject treated of in the first paragraph.

The Lieutenant-Governor's communication upon this Act states that the objections taken by Council to it are considered to be removed by the agreement for a settlement of the Indian Land question by Commissioners.

Although the undersigned cannot concur in the view that the objections taken are entirely removed by the action referred to; and, though he is of opinion that, according to the determination of Council upon the previous Crown Lands Act, there remains serious questions as to whether the Act now under consideration is within the competence of the Provincial Legislature, yet since, according to the information of the undersigned, the Statute under consideration has been acted upon, and is being acted upon largely in British Columbia, and great inconvenience and confusion might result from its disallowance; and, considering that the condition of the question at issue between the two Governments is very much improved since the date of his Report, the undersigned is of opinion that it would be the better course to leave the Act to its operation.

It is to be observed that this procedure neither expresses nor impliedly waives, any right of the Government or Parliament of Canada to insist that any of the provisions of the Act are beyond the competence of the Local Legislature, and are consequently inoperative.

The undersigned recommends that the Act be left to its operation.

3. By Minute in Council of the 7th January, 1876, the Report of the undersigned respecting an Act, intituled: "An Act to make Powers of Attorney valid in certain cases," was approved.

The same steps were subsequently taken upon this subject as those detailed with reference to the subject treated of in the first paragraph.

The Lieutenant-Governor's communication upon this Act states that it will be immediately amended, to remove the objections taken to Section 7, which was the only clause objected to. Upon this assurance of the Government of British Columbia the undersigned recommends that the said Act be left to its operation.

EDWARD BLAKE.

Minister of Justice.

Proclamation disallowing the Act Chapter 5 before mentioned.

GOVERNMENT HOUSE, OTTAWA, Friday, 5th May, 1876.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant Governor of the Province of British Columbia, with the Legislature of the said Province, did, on the 22nd day of April, 1875, pass an Act which has been transmitted, Chapter 5, intituled: "An Act to make provision for the better Administration of Justice;"

And, whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice recommending, for the reasons therein given, that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of the Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia, the 22nd day of April, 1875, intituled: "An Act to make provision for the better Administration of Justice," was received by me on the 8th day of May, 1875.

Given under my hand and seal this 5th day of May, 1876.

DUFFERIN.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 6th May,* 1876.

The Committee of Council have had under consideration the Report dated 28th April, 1876, from the Hon. the Minister of Justice, with reference to two Acts of the Province of British Columbia, assented to on the 22nd April, 1875, and respectively intituled: "An Act to amend and consolidate the laws respecting Crown Lands in British Columbia," and Chapter 5 "An Act to make Powers of Attorney valid in certain cases," and they concur in the recommendation contained in said Report, that those two Acts be left to their operation.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

BRITISH COLUMBIA, 39TH VICTORIA, 1876.

1ST SESSION—2ND PARLIAMENT.

Lieutenant-Governor Trutch to the Secretary of State of Canada.

BRITISH COLUMBIA, GOVERNMENT HOUSE, 23rd May, 1876.

SIR,—I have the honor to transmit, for such action as His Excellency the Governor General may be pleased to take thereon, duly authenticated copies of 29 Acts, the titles of which are set forth in the Schedule hereunto annexed, to which I declared my assent in Her Majesty's name, in the Legislative Assembly, on the 19th instant.

I also enclose for His Excellency's consideration, a copy of the Report of my Attorney-General on each several Bills.

I have, &c.,

JOSEPH W. TRUTCH.

Lieutenant-Governor.

The Hon.
The Secretary of State.

Reports of Mr. Attorney General Elliott.

ATTORNEY-GENERAL'S OFFICE, 18th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1876, and for making good certain sums expended in the Public Service in 1875. and for other purposes."

This Act is drawn in the usual form, and is fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 19th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Victoria and Esquimalt Railway Act, 1876."

I see no objection to Your Excellency giving your assent to this Act.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 18th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled; "An Act to provide for the better protection of Cattle Ranches."

This Act is not a compulsory one, that is only to be enforced on the petition of a certain proportion of the inhabitants of a district, and may be assented to by Your Excellency.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 17th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to authorize the issue of Debentures for short temporary Loans."

This Act is drawn in a fit shape to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 11th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to repeal the 'Road Ordinance, 1869,' and amendments."

The repealed Acts have become unnecessary, owing to the fresh scheme of taxation inaugurated this Session, and the Act may be assented to.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 4th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon the following Acts passed during the present Session of the Legislature, intituled, respectively: "An Act to impose, levy, and collect tolls on goods carried over the trail from Telegraph Creek to the mines in the District of Cassiar," and "An Act to provide for the maintenance of the Waggon Road from Yale to Cariboo."

These Acts have been passed in order that the moneys raised thereunder may be used towards defraying the expense of improving and repairing the trails and roads leading to the mines, and for general purposes, and are similar to the Acts heretofore in force, which were repealed in the Session of 1872, and are fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 6th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to provide for the services of legal process on foreign Companies carrying on business in British Columbia."

The want of a measure like this has long been felt, and the manner in which the Act deals with the subject is well-calculated to carry out the intention of the Act, which may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 12th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to assess, levy and collect taxes on property in British Columbia."

This Act has been passed to impose taxes on property and income; it is taken from the Ontario Act, 32 Vic., Cap. 36, and is fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 17th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act respecting the Methodist Church of Canada."

This Act is taken from, and is almost a copy of, the Ontario Act, 35 Vic., Cap. 107. It does not conflict with the "Religious Institutions' Ordinance, 1869," and is fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 17th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend and consolidate the Public School Acts."

The Act contains a few useful provisions, in addition to those of the old Acts, and may well receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend and explain the execution against Lands Act, 1874."

The Act exempts from the operation of the execution against "Lands Act, 1874," chattel interests, as defined in the Gold Mining Ordinance, 1867, and may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act respecting the challenging, and number of Jurors in Civil Cases."

This Act is passed to remedy the defect in the Jurors' Act, 1860, which only allows for favor, and is free from objection, and may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 6th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to make debts and choses in action assignable at law."

This Act is almost a transcript of the Ontario Statute, 35 Vic., Cap. 12, and is in a fit shape to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act respecting Voluntary Conveyances."

This Act is merely a copy of the Ontario Statute, 31 Vic., Cap. 9, and may be assented to by Your Excellency.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to make provisions as to Investment of Trust Funds, and appointment and powers of Trustees and Executors."

This Act is taken from the Trustees Act, 23 and 24 Vic., Cap. 145, and may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Land Act, 1875."

This Act provides for compensation to be given to persons whose land, or materials therefrom, is required for public roads, and is fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to make better provision for the qualification and registration of Voters."

This Act repeals that passed last year and re-enacts, with a few slight alterations, the repealed Act of 1874, and is free from objection, and may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to provide for the maintenance of Public Schools in the Province of British Columbia."

This Act imposes a tax of $3 per head upon all male persons resident in the Province, and has been passed for the purpose of raising a revenue for the purpose of defraying the expenses of the school system in the Province, and is fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 5th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act respecting Breeding Stock." The Act, as passed, is almost the same as the repealed Act of 1872, except that the option of applying the Act to any particular district, heretofore given to settlers, is taken away.

The Act as it stands is free from objection, and fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act for giving to the parties to civil causes in the Supreme Court the option of having such causes tried by a Judge or Jury." This Act contains some very useful provisions, and I can recommend it for Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Municipality Act, 1872, and amendment thereto." This Act contains many useful provisions and is a measure that may well receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 18th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Licenses Act of 1867."

The Act enlarges the scope of the original Ordinance, and has been passed in order to reach a class of persons doing a large business, who have hitherto evaded the payment of a license, and the Act may receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,

Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 19th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to further amend the Licenses Ordinance, 1867."

This is a similar Act to that already passed this Session, and is also fit to receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act respecting Boundary Fences and Watercourses."

This Act has been passed to obviate the difficulty that has frequently been felt in dealing with the various questions now provided for, and I see no objection to Your Excellency assenting to it.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Power of Attorney Act, 1875."

This Act has been passed, owing to an intimation received from the Minister of Justice, that the provisions of the 7th Clause of the repealed Act were beyond the power of the Local Legislature to pass. The Act as it now stands can receive Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 8th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Gold Mining Amendment Act, 1873."

I see nothing objectionable in this Act, and can recommend it for Your Excellency's assent.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 11th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon the Act passed during the present Session of the Legislature, intituled: "An Act to amend the Election Regulation Act, 1871."

This is a useful Act, and may be assented to by Your Excellency.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

ATTORNEY-GENERAL'S OFFICE, 11th May, 1876.

SIR,—I have the honor to report, for the information of Your Excellency, upon an Act passed during the present Session of the Legislature, intituled: "An Act for the Management of Public Works." I see no objection to Your Excellency assenting to this Act.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th October, 1876.

With reference to the Acts of the Legislature of British Columbia, passed in the First Session of the Second Legislature, 39th Victoria, 1876, the undersigned begs to report as follows:—

He recommends that the following Acts be left to their operation, namely:—

Chapter 4. An Act to amend the "Election Regulation Act, 1871."

Chapter 6. An Act for the management of Public Parks.

Chapter 7. An Act to impose, levy, and collect Tolls on goods carried over the Trail from Telegraph Creek to the mines in the District of Cassiar.

Chapter 9. An Act respecting the Methodist Church of Canada.

Chapter 10. An Act to repeal the "Road Ordinance, 1869," and Amendments.

Chapter 13. An Act to authorize the issue of Debentures for short temporary Loans.

Chapter 14. An Act respecting Boundary Fences and Watercourses.

Chapter 15. An Act respecting Breeding Stock.

Chapter 16. An Act to provide for the better protection of Cattle Ranges.

Chapter 17. An Act for giving to the the parties to civil causes in the Supreme Court, the option of having such causes tried by a Judge or Jury.

Chapter 18. An Act to amend and explain the "Execution against Lands Act, 1874."

Chapter 19. An Act to provide for the service of legal process on Foreign Companies carrying on business in British Columbia.

Chapter 20. An Act to make debts and choses in action assignable at Law.

Chapter 21. An Act respecting voluntary conveyances.

Chapter 22. An Act to make provision as to investment of Trust Funds, and appointment and powers of Trustees and Executors.

Chapter 23. An Act respecting the challenging and number of Jurors in Civil cases.

Chapter 25. An Act to amend the "Land Act, 1875."

Chapter 26. An Act to amend the "Gold Mining Amendment Act, 1873."

Chapter 27. An Act to provide for the maintenance of Public Schools in the Province of British Columbia.

Chapter 28. An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1876, and for making good certain sums expended in the Public Service in 1875, and for other purposes.

Chapter 29. An Act to amend the "Victoria and Esquimalt Railway Act, 1873."

With reference to Chapter 1. "An Act to amend the Municipality Act, 1872, and Amendments thereto."

This Act contains several provisions with reference to licenses, with respect to which the power of Local Legislatures is in controversy.

The undersigned recommends that the course hitherto pursued should be continued, and the Act left to its operation.

Chapter 2. An Act to amend and consolidate the "Public School Acts."

Section 43, both by the character of the Acts with which it deals, and by the term which applies to these Acts, namely, "offences," appears to trench upon the criminal law, and the undersigned recommends that the attention of the Lieutenant-Governor should be called to this section, with a view to its amendment.

Chapter 3. "An Act to provide for the maintenance of the Waggon Road from Yale to Cariboo."

This Act repeals the "Tolls Exemption Ordinance, 1865;" the "Tolls Exemption Ordinance, 1865, amendment Act;" the "Tolls Exemption Act, 1871;" the "Thompson Bridge Act, 1864;" and the "Thompson Bridge Ordinance, 1868."

It establishes a toll of half a cent for every pound avoirdupois of good, merchandise, stores, productions and chattels, other than those hereinafter excepted, which shall respectively be carried over or across the Alexandra Suspension Bridge or the Fraser River, within a distance of ten miles from the bridge, or carried from Clinton in the direction of Cariboo.

The 3rd Section exempts from tolls, goods, merchandise, stores, productions or chattels passing over the bridge from the direction of Cariboo towards Yale. It exempts, also, mining machinery, farming implements, wheat, beans, peas, oats, barley and grain of all kinds, hay, roots, vegetables and other agricultural produce the growth of the Province, and all flour and meal manufactured in the Province from wheat, beans, peas, oats, barley and grain of all kinds grown in the Province, and all cattle, and all articles and things coming in the direction of the seaboard from the interior of the Province, whether intended for export or home consumption, for the purpose of manufacture in the Province, or any other purpose whatsoever.

The repealed Ordinance, 1865, exempted from road and ferry tolls in British Columbia, on the ground that it was expedient to exempt agricultural produce of home growth, from road tolls, all agricultural produce in an unprepared state, the growth of the Colony.

The repealed Ordinance of 1871 extended the exemption to flour and meal manufactured from grain of all kinds, the growth of the Colony.

The repealed Exemption Ordinance of 1871 recited that it was desirable to encourage the transmission of articles of export from the interior of the Colony, and exempted all articles and things coming in the direction of the seaboard from the interior, whether intended for export or home consumption, or for any other purpose, from liability to tolls.

It is obvious, therefore, that the Act now under consideration is in furtherance of a policy which had been pursued in British Columbia for several years; but the undersigned feels it his duty to call the attention of Council to this Legislation, which, in effect, places upon the consumers of imported goods, the chief burden of maintaining the public roads which are established, as well for the transport of articles of home production.

The undersigned does not recommend the disallowance of this Act, but he must point out that its principle might be so extended as to render it necessary to con-

sider the question whether such legislation does not trench on the regulation of trade and commerce.

Chapter 5. "An Act to make better provision for the Qualification and Registration of Voters."

Section 13 appears to trench upon the Criminal Law, and the undersigned recommends that the attention of the Lieutenant-Governor be called to it.

Chapter 8. "An Act to assess, levy and collect taxes on property in British Columbia."

The British Columbia Assembly passed, in its Session of 1872, an Act to impose a wild land tax, which was reserved. Upon that Act the following observations were made by the then Minister of Justice, viz.:

35th Victoria, 1872. "This Act imposes a tax of 4 cents per acre upon all lands, with certain exceptions.

"By Sub-section *a* of the first clause of this Bill, lands vested in or held in trust for Her Majesty, or for the public uses of the Province, are exempted from the tax. Although, under this exemption, the lands to be conveyed in trust by the Government of British Columbia to that of the Dominion, under the 11th Section of the Terms of Union between British Columbia and the Dominion, will be free from the tax, it is clear that whenever these lands are conveyed to any Company incorporated for the purpose of the construction of the Pacific Railway, the exemption will cease.

"Now, the imposition of so heavy a tax as 4 cents an acre upon this large tract of wild lands will render it practically valueless.

"The Government of Canada are taking active steps to endeavor to induce capitalists to engage in the great undertaking of constructing a railway to connect the two oceans. The chief inducement to such capitalists is the promise of a large grant of land in aid of the enterprise, and the imposition of such a tax upon these railway lands would greatly diminish the prospect of a Company being formed."

35th Victoria. "The Attorney-General of British Columbia seems to agree with the undersigned in this opinion. Under the circumstances, therefore, the undersigned begs respectfully to recommend that the assent of Your Excellency be withheld from this Bill.

"He also begs leave to suggest that the Lieutenant-Governor of British Columbia be instructed to press upon his Government the expediency of exempting these railway lands in any Act that may be hereafter passed imposing a land tax.

"He would further suggest, to prevent the possibility of a doubt, that Subsection *a*, above referred to, should, in any new Act, be amended, by exempting lands now or at any time hereafter vested in or held in trust for Her Majesty."

The Act was not assented to.

In 1873 the British Columbia Legislature passed an Act to impose a wild land tax, by which an annual land tax of 1 per cent. upon the value per acre was assessed and levied upon all land, save as therein exempted. The first exemption is "land now or at any time hereafter vested in or held in trust for Her Majesty, or for the public uses of the Province."

This Act was left to its operation. It is, by the Act now under consideration, repealed, and the following provisions are enacted:—

Section 8. "All land and personal property and income in the Province of British Columbia shall be liable to taxation, subject to the following exemptions, that is to say:—

(1.) All property now or hereafter to be vested in or held in trust for Her Majesty, or now or hereafter to be held as Dominion Railway Lands, and all lands to be conveyed to the Dominion Government under the 11th Section of the Terms of Union, or otherwise, or held by Her Majesty, or vested in any public body or body corporate, officer, or person, or trust for Her Majesty, or for the public uses of the Province; and also all property vested in or held by Her Majesty, or any other person or body corporate, in trust, or for the use of any tribe or body of Indians, and either unoccupied or occupied by some person in an official capacity.

Section 9. "There shall be assessed, levied and collected from every person, and paid to Her Majesty, her heirs and successors, the sums following, that is to say:—

"One-third of one per cent. on the assessed value of real estate.

Section 10. "In addition to the tax hereby imposed on real estate, an annual tax of five cents per acre shall be levied upon all unoccupied land in the Province; provided that no such tax shall be levied or collected in respect of the following land:—

(2) "Land now, or at any time hereafter, vested in, or held in trust for Her Majesty, or for the public uses of the Province.

(3.) "Land held for the benefit of any tribe or body of Indians."

The words "unoccupied land" mean land on which there shall not be existing improvements to the amount of $5 per acre on each parcel of land.

It will be observed that the exemption from the fixed tax of five cents on unoccupied land is not as extensive as the exemption from the tax on the assessed value; and it might be argued to include lands "held as Dominion Railway Lands, or to be conveyed to the Dominion Government under the 11th Section of the Terms of the Union," which are exempted from the operation of the 8th Section.

The undersigned presumes that this cannot have been intended, and he suggests that the attention of the Lieutenant-Governor be called to this difficulty, with a view to the amendment of the section, before the period arrives for determining whether the Act should be disallowed.

Section 38 appears to trench upon the Criminal Law, and this fact should be suggested to the Lieutenant-Governor.

Section 13, Schedule B. These provisions trench on the subject of Census and Statistics; but Provincial Legislation of a similar character has been repeatedly left to its operation, and the undersigned cannot recommend interference with this Act on that ground.

Chapter 11. An Act to amend the "Licenses Ordinance, 1867."

The Licenses Ordinance, 1867, prohibited the carrying on of various descriptions of business, save under licenses, for which various sums were payable. The Act now under consideration provides that certain licenses must be taken out in addition to the licenses required to be taken out by the persons following the several trades, occupations, professions or businesses mentioned and set forth in Schedule A of the License Act, 1867.

The continuing validity of that Ordinance is thus asserted, though the question whether it be wholly valid depends upon the question as to the regulation of trade, to which the undersigned has referred as in controversy.

But the new Act raises an additional and very serious question. It requires that there shall be paid, by way of license, the following sums, that is to say:—

(*p.*) "By every person following the occupation of a commercial traveller, who is not a permanent resident of the Province, and is engaged in the business of selling merchandise, or of soliciting orders therefor by sample or otherwise, the sum of two hundred dollars, in advance, every year.

(*q.*) "By every person, not being a permanent resident in British Columbia, and not being a commercial traveller, who trades or sells any goods whatsoever in the Province, one hundred and fifty dollars, in advance, every year. Provided, that in the Electoral District of Kootenay the sum of one per cent. only shall be paid by any person engaged in the business of packing, on the gross value of the cargo.

(*r.*) "By every person engaged in peddling or hawking any goods whatsoever in any part of British Columbia, not being farming produce of home growth, or home manufacture of any description, or fish or game, one hundred and fifty dollars, in advance, every year."

It further requires that these sums shall be paid in addition to any sums that may be imposed and collected by any Municipality under any By-law passed for the same purposes.

Looking to the three sections, it seems sufficiently obvious that they are directed to, and will have the effect of laying a duty or charge upon the sale, chiefly, if not

exclusively, of imported goods, when effected by persons not permanent residents of the Province.

Section "*r*" expressly imposes a tax of $150 on persons engaged in peddling or hawking any goods, not being farming produce of home growth, or home manufacture, or fish or game.

Section "*q*" imposes a tax of $150 on every person, not a permanent resident in the Province, who trades or sells any goods whatsoever in the Province. This section is not, in terms, confined to imported goods, but it is obvious that its practical application would be chiefly to these goods. In the District of Kootenay 1 per cent. on the gross value of the cargo is substituted for the fixed tax.

Section "*p*" imposes a tax on every person following the occupation of commercial traveller, not a permanent resident in the Province, engaged in the business of selling merchandise or of soliciting orders, by sample or otherwise, and this tax obviously, both from the description of the person and of the business, and from the circumstances of the country, implies to imported good when sold by particular persons. The unequal and discriminatory character of these taxes, and their injurious effect in the regulation of trade and commerce, are very obvious.

The Act further recognizes the power of Municipalities to pass By-laws for the imposition of taxes to an indefinite amount for the same purposes.

Besides the express provision of the British North America Act, vesting exclusively in Canada the regulation of trade and commerce, it is to be observed that that Act vests in that Parliament the Legislation on Duties, Customs and Excise, and the funds produced thereby.

It also provides that, "all articles of the growth, produce or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces."

The Local Act now under consideration appears to the undersigned, by reason of its peculiar provisions, both as to the classes of persons and the description of trade subjected to taxation, to involve an attempt to regulate trade and commerce in excess of the powers of a Local Legislature, opposed to the spirit of the Union Act, in violation of sound principles of taxation and of mischievous tendency, and he recommends that the attention of the Lieutenant-Governor be called to it, with a view to ascertaining whether the Local Government will agree that it should not be forced until the next Session of the Legislature, and that Legislation will then be promoted for its repeal; otherwise, that it should be disallowed.

Chapter 12. An Act to further amend the "Licenses Ordinance, 1867."

This Act enacts that, in addition to the sums required to be paid by way of license in the Act recited, there shall be paid by every drover, driving or bringing cattle, horses, sheep or hogs into the Province, a license of $150 every six months, in advance.

The observations made with reference to Chapter 11 apply to this Act, and the undersigned recommends that the same course be pursued with reference to it.

Chapter 24. An Act to amend the "Power of Attorney Act, 1875."

This Act amends the 7th Section of the recited Act, by substituting for hard labor for the term of two years, any term not exceeding eighteen months. The recited Act was one upon which the undersigned, on the 5th January, 1876, reported, pointing out that this section trenched upon the provisions of the Criminal Law, and suggesting that the attention of the Government of British Columbia should be invited to this difficulty, with a view to their considering whether the Act should not be amended, before the period arrives for determining as to its disallowance.

In answer to a subsequent application made to the Government of British Columbia as to their views, the Lieutenant-Governor stated that the Act would be immediately amended to remove the objection taken to this section, and upon this assurance of the Government of British Columbia the undersigned recommended that the Act should be left to its operation, which was accordingly done.

It is, however, to be observed, that notwithstanding the alteration of the penalty of two years, with or without hard labor, to eighteen months, with or without hard

labor, the section is still an invasion of the Criminal Law, and the undersigned recommends that the attention of the Lieutenant-Governor should be called to the propriety of inviting its amendment.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th November,* 1876.

The Committee of Council have had under consideration the Report, hereunto annexed, from the Hon. the Minister of Justice, having reference to Acts of the Legislature of British Columbia passed in the First Session of the Second Legislature, 39 Vic., 1876, and they respectfully submit their concurrence therein, and advise that a copy thereof, and of this Minute, be transmitted for the information of the Government of British Columbia.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 22nd May, 1877.

Referring to the Report of the Minister of Justice, of the 11th of October last, upon the Acts of the Legislature of British Columbia passed in the Session of 1876, I beg to report:—

That in accordance with the suggestion contained in that Report, Chapter 8 of those Acts has been amended, so as to remove the objection referred to in the Report, and Chapters 11 and 12 have been repealed.

I therefore recommend that the said Chapter 8 be left to its operation.

A. J. SMITH,
For the Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 24th May,* 1877.

On a Memorandum dated 22nd May, 1877, from the Hon. Mr. Smith, acting in the absence of the Minister of Justice, having reference to the Report of the Minister of Justice, of the 11th October last, upon the Acts of the Legislature of British Columbia passed in the Session of 1876, and reporting that in accordance with the suggestion contained in that Report, Chapter 8 of those Acts has been amended, so as to remove the objection referred to in the Report, and Chapters 11 and 12 have been repealed, and he therefore recommends that the said Chapter 8 be left to its operation.

The Committee submit the above recommendation for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

BRITISH COLUMBIA, 40TH VICTORIA, 1877.

2ND SESSION—2ND PARLIAMENT.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, BRITISH COLUMBIA, 10th May, 1877.

SIR,—I have the honor to transmit to you herewith, for the information of His Excellency the Governor-General of Canada, a certified copy of all the Acts passed at the last Session of the Legislative Assembly of this Province, and to which I assented in Her Majesty's name, on the 18th day of April last.

Also, a certified copy of a Bill passed at the said Session, intituled: "An Act to amend the Gold Mining Amendment Act, 1872," to which I did not assent, but which I reserved for the signification of the pleasure of His Excellency the Governor General of Canada.

Also, a copy of the Report of the Attorney-General of the Province upon the said Bill reserved, together with a list of the said Acts and Bills.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. the Secretary of State of Canada.

Report of Mr. Attorney-General Elliott.

ATTORNEY-GENERAL'S OFFICE, 16th April, 1877.

SIR,—I have the honor to report upon an Act passed during the present Session of the Legislature, intituled: "An Act to amend the Gold Mining Amendment Act, 1872." This Act gives jurisdiction in all personal actions to the Gold Commissioners in Kootenay and Cassiar, and appears to trench upon the provisions of the 96th Section of the British North America Act, which vests the appointment of the Supreme and County Court Judges in the Governor General alone; inasmuch as it provides that the paid employés of the Local Government, in the Districts aforesaid, shall have and exercise almost as much power as a Supreme Court Judge.

As I think the Legislature has not the power, in effect, to make these appointments, I would suggest that the Act be reserved for the consideration of His Excellency the Governor General.

I have, &c.,

A. C. ELLIOTT,
Attorney-General.

His Excellency the Lieutenant-Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 29th September, 1877.

I beg to report upon the Acts passed by the Legislature of the Province of British Columbia in the fortieth year of Her Majesty's reign, being the year 1877—received by the Secretary of State on the 22nd May, 1877.

No. 1.—"An Act for revising and consolidating the laws of the Province of British Columbia."

No. 2.—"An Act respecting the appointment of Magistrates."

No. 3.—"An Act respecting the appointment of Coroners."

No. 4.—"An Act respecting Municipal Elections."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

No. 5.—"An Act respecting the qualification for the Offices of Mayor and Councillors in certain Municipalities."

Section 4 provides that "any candidate wilfully making a false declaration of his qualification for the office of City Councillor or Mayor shall, on conviction thereof, upon information under oath, in a summary way, before any Justice of the Peace, be liable to imprisonment for any period not exceeding three months, or to a fine, &c."

Section 6 provides that certain persons "making a false declaration of the matter herein required to be declared before a Judge, &c., shall be punishable therefor, upon information under oath, in a summary way, before any Justice of the Peace, by imprisonment for any period not exceeding three months, or by fine, &c."

These sections seems to entrench upon the Criminal Law and procedure in Criminal matters, which, by the "British North America Act, 1867," comes within the exclusive Legislative authority of the Parliament of Canada.

I recommend that the attention of the Lieutenant-Governor be called to them, in order that his Government may promote, at the next Session of the Legislature, Legislation to repeal or amend the same, before the time expires within which the power of disallowance can be exercised.

No. 6.—"An Act to enable Municipal Corporations to pass By-laws for the sale of Land for Taxes."

The 3rd Section of this Act provides that the owner of land sold for non-payment of taxes may, within a certain time, redeem the estate sold, by paying to the Clerk of the Municipality, for the use and benefit of the purchaser, or his legal representatives, the sum paid by him, together with 18 per cent. per annum thereon.

It is questionable whether or not this is Legislation in respect of interest, which, by the Confederation Act, comes within the exclusive Legislative authority of the Parliament of Canada.

Inasmuch, however, as similar Legislation has been left to its operation in other Provinces, and as the same result might be effected in another way, I recommend that this Act be left to its operation.

No. 7.—"An Act to remove doubts as to the validity of certain Municipal Elections."

No. 8.—"An Act to amend the Sub-section 37 of Section 21 of the Municipality Act, 1872."

These two Acts appear to be unobjectionable, and I recommend that they be left to their operation.

No. 9.—"An Act to authorize certain Municipalities to retain and use the Court fines, fees and forfeitures as part of the Civic Revenue."

This Act is as follows, viz.: "Notwithstanding anything to the contrary contained in any Act, Ordinance or Proclamation, it shall be lawful for every Municipality paying the annual salary of a Police Magistrate, and maintaining a Police force, to retain and use, as part of the Municipal revenue, all Police Court fines, fees, and forfeitures."

This provision is wide enough to cover not only fines and forfeitures incurred for breach or non-compliance with laws of the Province made in relation to matters coming within the classes of subjects over which the Provincial Legislature has exclusive Legislative authority, but also all fines and forfeitures which may be imposed at the Police Court under the Criminal Law of Canada, or by reason of the breach of or non-compliance with the laws of Canada.

The 102nd Section of the British North America Act, 1867, provides that "all duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick, before and at the Union, had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the manner and subject to the charges in this Act provided."

There does not appear to be any provision in the Act reserving to the Provinces the revenues derived from fines or forfeitures under the Criminal Law, and as the Parliament of Canada has exclusive Legislative authority over the Criminal Law (except the constitution of Courts of Criminal Jurisdiction), and as that Parliament alone can alter the existing Criminal Law, under which fines and forfeitures are imposed, and can create new crimes punishable by fine or forfeiture, and alone increase or reduce the amounts of fines and forfeitures under the Criminal Law, or altogether abolish them, I am of opinion that the provision of this Act, so far as it attempts to control or dispose of fines and forfeitures imposed by the Criminal Law, or by any of the other laws of Canada, is *ultra vires* of the Provincial Legislature, and I recommend that the attention of the Lieutenant-Governor be called to this Act, to the end that the same may, at the next Session of the Provincial Legislature, be repealed, or so amended as to confine it to fines and forfeitures arising under laws of the Province made in relation to matters coming within the exclusive Legislative authority of the Province; otherwise, that it be disallowed.

No. 10.—"An Act to amend the Assessment Act, 1876."

The third section of this Act amends Sub-section 11 of Section 8 of the Assessment Act, 1876. Section 8 provides that "all lands and personal property and income in the Province of British Columbia shall be liable to taxation, subject to the following exemption, among others: the houses and premises whilst occupied by any of the officers, non-commissioned officers and privates of Her Majesty's Regular Army and Navy in actual service, and the full or half-pay of any one in any or either of such services, any pension, salary, gratuity or stipend derived from any person from Her Majesty's Imperial Treasury, or elsewhere out of this Province, and the personal property of any person in such naval or military services on full pay, or otherwise in actual service."

The amendment is the striking out of the words "or elsewhere out of the Province." The effect of this seems to be to bring the pensions, salaries, gratuities or stipends derived by persons from the Dominion Treasury within the classes of property liable to taxation. The question how far the Provinces have a right to tax the salaries of persons in the service of the Dominion Government is now under the consideration of the Court of Appeal in Toronto, in the case of Leprohon *vs.* the City of Ottawa, and pending a decision as to the powers of a Local Legislature in this respect, I do not recommend any interference with the Act.

No. 11.—"An Act to prevent the destruction of Pasturage on the Islands in the Gulf of Georgia."

Section 8 provides for the imposition of a penalty of $50 upon any person neglecting or refusing to obey the order of the Justice of the Peace in respect of using or altering a brand, for the purpose of branding sheep in certain cases.

Section 9 imposes a fine upon certain persons fraudulently branding or obliterating brands on certain sheep. Each of these sections make use of the word "offence" in dealing with the breach of or non-compliance with its requirements. In a Report

upon the Statutes of Ontario, made by the Minister of Justice on the 25th August, 1873, the following remarks occur:—

"The undersigned would beg leave to suggest the inexpediency of describing in Provincial Statutes any breach of the Law of the Province as an 'offence.' The 15th Paragraph of the 19th Section of the British North America Act, 1867, enables a Provincial Legislature to make laws in relation to the imposition of punishment by fine, penalty or imprisonment, for enforcing any laws of the Province. This can be done without describing the breach of the law as an 'offence.' The word 'offence,' in legal *parlance*, seems to imply a breach of the Criminal Law, and, when not expressly declared to be treason or felony, may be considered as synonymous with misdemeanor;" and attention has been drawn, in other Reports upon Provincial Legislation, to the inexpediency of using the word "offence" in such cases in Provincial Statutes; and although I do not recommend the disallowance of this Act on acccount of the use of the word, I recommend that the attention of the Lieutenant-Governor be called to the remarks just made, and that he be asked to request his Government to see that the use of this word is avoided in future Provincial Legislation.

No. 12.—"An Act to prevent the spread of Thistles."

This Act seems unobjectionable, and I recommend that it be left to its operation.

No. 13.—"An Act to encourage the mining of Gold-bearing Quartz."

This Act provides for the payment by the Province of the sum of $15,000 to the Company which first erects, at a certain specified place, a quartz mill of certain dimensions, and the 4th Section is as follows:—

"After payment of such sum, Her Majesty's Attorney-General for the Province of British Columbia, on behalf of Her Majesty, shall be deemed to be, as against the Company so receiving such money, a creditor for such money, and shall have at law and in equity a first mortgage upon the said mill, and other the property of the said Company, for the said sum of $15,000, without the registering or recording of such mortgage, and notwithstanding any prior, legal or equitable mortgage thereon."

This section would seem to be objectionable, as it may be an interference with vested rights of private individuals, without providing for any compensation to them therefor. It may be that the land and other property of the Company which may first erect the mill has been *bonâ fide* mortgaged or pledged before the payment of the $15,000, and even before the passing of the Act. If so, such mortgage or pledge might be rendered valueless without the knowledge or consent of the holder, as upon payment of the $15,000, the Attorney-General of the Province is to have at law and in equity a first mortgage upon the mill and other property of the Company, without registering or recording the mortgage; and notwithstanding any prior, legal or equitable mortgage thereon, should the mill be destroyed or the venture prove a failure, the first charge of $15,000 might more than cover the value of the property.

I recommend that the attention of the Lieutenant-Governor be called to this provision, with a view to its amendment at the next Session of the Legislature, in order to meet the objections just mentioned.

No. 14.—"An Act relating to Minerals other than Coal."

This Act provides for the mode of location of mining claims, and for the extent of the applicants interested in the location.

Section 11, is as follows:—In case any dispute shall arise between the applicants for the same claim, or any portion thereof, any Supreme Court Judge, County Court Judge, or Gold Commissioner shall have full power to hear and determine the dispute, and the procedure and practice shall be analogous to that provided for in the "Gold Mining Ordinance, 1867." Although I do not propose to recommend the disallowance of this Act, I think it proper to call attention to the various Acts relating to the Gold Commissioner, and his powers as a Judge of the Mining Court, and to the danger of allowing Legislation which increases, from time to time, the jurisdiction of this Court, the Judge of which has not been appointed by the Governor-General.

Ordinance No. 90, assented to on 2nd April, 1867, of the Revised Laws of British Columbia, Section 4, provides that "the Governor may, from time to time,

appoint such persons as he shall think proper to be Chief Gold Commissioner and Gold Commissioners either for the whole Colony or for any particular District therein, and from time to time, in like manner, fix and vary the limits of and sub-divide such Districts and make and revoke all such appointments."

Section 5 is as follows :—

"Within every such District or Districts there shall be a Court, to be called the 'Mining Court,' in which the Gold Commissioner of the District shall preside as Judge thereof."

Section 6 is as follows :—"Such Mining Court shall have original jurisdiction as a Court of Law and Equity, to hear and determine all mining disputes arising within its Districts, and shall be a Court of Record, with a specific seal; and in determining suits or actions brought therein, the Gold Commissioner may render such judgment or make such order or decree as he shall deem just; and for the purpose thereof, and for enforcing the same, he shall have and exercise, save as hereinafter excepted, the same powers and authority, legal and equitable, as are now exercised by the Supreme Court of Civil Justice of British Columbia, by any Judge thereof: provided, however, that the Gold Commissioner shall, if desired by both parties to a cause of liquidated damages, or if desired by either party to a cause, in case of unliquidated damages, summon a Jury of from three to five free miners, to assess the amount of such damages."

In 1872 this Act was amended by No. 14 of the Acts of that year, the 12th Section of which is as follows :—

"Section 6 of the principal Act shall be so construed as to give the Mining Court jurisdiction in all actions arising upon contracts entered into between any free miner, or Company of free miners, and any other person or persons, for the supply of goods, wares, merchandise, materials or implements used in mining (articles of clothing excepted), and the Gold Commissioner shall have full power to enforce any judgment, decree, rule or order of such Court, according to the present practice of the Supreme Court of British Columbia, by writ of execution, process of contempt, proceedings for attachment of debts, or by other process adopted by such Supreme Court.

This Act was left to its operation, without special remarks.

In 1873 Act No. 14 of that year was passed, providing for the merging of the Mining Court into the County Court, and giving the County Court Judges the same jurisdiction and powers as those had and exercised by the Gold Commissioners acting as Judges of the Mining Court; but the Act is to come into force in such portions only of the Province as the Lieutenant-Governor in Council may, from time to time, by proclamation, order, and such order may, in like manner, be from time to time varied or revoked.

This Act, also, was left to its operation, without special remark.

In 1876 Act No. 26 of the Statutes of that year was passed, which, after referring to an Act of 1873 authorizing the acquisition of the fee simple of certain mining lands upon certain conditions, provides, by Section 7, as follows: "That the Gold Commissioner shall, with reference to real estate held under the said Act, have the same powers and authorities to decide all matters or disputes arising between the owners thereof, or between the owners and any third person, in the same way and as fully as he might do concerning claims not being real estate; and actions, suits and other proceedings relating to such matters or disputes, shall be brought and had in the same manner as actions, suits or proceedings relating to mining claims not being real estate."

This Act was also left to its operation, without special remark. The section of the Act now under consideration, further extends the powers of the Gold Commissioner as Judge of the Mining Court. The 96th Section of the British North America Act, 1867, empowers the Governor General to appoint the Judges of the Superior, District and County Court in each Province except those of the Courts of Probate in Nova Scotia and New Brunswick.

By the 92nd Section the Provincial Legislatures have power to make laws in relation to the administration of justice, including the constitution, maintenance and organization of Provincial Courts, both of civil and of criminal jurisdiction. They have also power to legislate respecting the establishment and tenure of Provincial offices, and the appointment and payment of Provincial officers. If there be power in the Legislature of British Columbia to establish this so-called Mining Court, and appoint and pay the Judges thereof, it must be found in the section I have just quoted. I think, however, that this Court, which is declared to have original jurisdiction, to be a Court of Law and Equity, and a Court of Record with a specific seal, and for the purpose of enforcing its judgments, orders and decrees, to have (with certain exceptions) the same powers and authority, legally and equitably, as are exercised in the Supreme Court of Civil Justice of British Columbia by any Judge thereof, which has power also to summon a jury to assess damages, may be considered a Court within the meaning of the 96th Section of the Confederation Act.

It is not, in my opinion, necessary, to bring a Provincial Court within the provisions of this section, that it should be called by the particular name of Superior, District or County Court. The exception to that section itself indicates that the Courts of Probate in Nova Scotia and New Brunswick would, unless specially excepted, have come within the definition of Superior, District or County Courts. It will be readily seen how easy it would be for the Local Legislature, by gradually extending the jurisdiction of these Mining Courts, and by curtailing the jurisdiction of the County Courts or Supreme Courts, as now established, to bring within their own reach not only the administration of justice in the Province, but also practically the appointment of the Judges of the Courts in which justice is administered. Inasmuch, however, as legislation of a similar nature to that contained in the section now under consideration has been left to its operation in previous years, and as the provisions of the section appear to be convenient, I do not recommend a disallowance of the Act.

I recommend, however, that the attention of the Lieutenant Governor be called to the observation just made. The 14th Section provides that the Act shall only apply to unoccupied and unreserved Crown Land, and shall not apply to any Indian Reserve or Settlement. I call attention to the Report of the Minister of Justice, dated 9th March, 1874, upon Caps. 1, 3 and 4 of the Statutes of British Columbia of that year, in which it was pointed out, that as the two years by which, under the terms upon which British Columbia entered the Union, lands were to be reserved by the Government of British Columbia from sale, with a view to setting apart such lands as are requisite for the Canadian Pacific Railway, had expired, there was no objection to the passage of these Acts; but it was suggested that communication be had with the Lieutenant-Governor, calling his attention to the practical inconvenience which must ensue to the Government of Canada and British Columbia if land be sold by the Province on any portion of the line which may hereafter be selected as that of the Canadian Pacific Railway, and that his consideration be requested to the propriety of withholding from sale or rights of pre-emption lands which, in so far as surveys have been heretofore made, can possibly be contiguous to the line of railway, if any one of such surveys be adopted. I recommend that a similar course be pursued with reference to this Act.

No 15.—"An Act to make Regulations with respect to Coal Mines."

The word "offence" occurs no less than fifty-two times in this Act. I refer to the remarks I have made above as to this word. Section 14 is as follows, viz.:—

"Any Act for the time being in force, relating to weights and measures, shall apply to the weights used in any mine to which this Act applies, for determining the wages payable to any person employed in such mine according to the weight of the coal gotten by such person, in like manner as it applies to weights used for the sale of any article, and any Inspector of Weights and Measures for the Province, appointed under the said Act, shall, accordingly, from time to time, but without unnecessarily impeding or interrupting the working of the mine, inspect and examine, in manner directed by the said Act, the weighing machines and weights used for mines to which this Act applies, or the measures or gauges used for such mines: provided, that

nothing in this section shall prevent the use of the measures and gauges ordinarily used in such mine."

This section intrenches upon the subject of weights and measures, which, by the British North America Act, 1867, comes within the exclusive Legislative authority of the Parliament of Canada. I recommend that the attention of the Lieutenant-Governor be called to this provision, in order that his Government may, before the time for disallowance of the Act arrives, promote its repeal.

Section 32 provides that: "Every person who commits any of the following offences, that is to say:—

"1. Forges or counterfeits or knowingly makes any false statement in any certificate of competency or service under this Act, or any official copy of such certificate; or

"2. Knowingly utters or uses any such certificate or copy which has been forged or counterfeited, or contains any false statement; or

"3. For the purpose of obtaining, for himself or any other person employed as a certified manager, or the grant, renewal or restoration of any certificate under this Act, or a copy thereof, either—

"*a.* Makes or gives any declaration, representation, statement or evidence which is false in any particular; or

"*b.* Knowingly utters, produces or makes use of any such declaration, statement or evidence, or any document containing the same, shall be guilty of an offence against this Act, and be liable, on conviction, to imprisonment for a term not exceeding twelve months."

This section clearly intrenches upon the Criminal Law.

I recommend that the Lieutenant-Governor be requested to invite its repeal before the time for disallowance of the Act arrives.

The 28th Sub-section of Section 46, Part II, of the Act, is as follows, viz.:—

"No person shall wilfully damage, or, without proper authority, remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, break indicator, steam gauge, water gauge, safety valve, or other appliances or thing provided in any mine in compliance with this Act."

This seems to intrench upon the Criminal Law, relating to malicious injuries to property, but as the provision is a useful one, and doubts may arise as to whether all the cases mentioned in the section are provided for in the Criminal Law, I do no more than call attention to the fact.

No. 16.—"An Act to repeal the Licenses Amendment Act, 1876; and an Act to further amend the Licenses Ordinance, 1867."

No. 17.—"An Act to afford to owners and occupiers of land a summary remedy in certain cases of trespass."

These two Acts appear unobjectionable, and I recommend that they be left to their operation.

No. 18.—"An Act to amend the Election Regulation Act, 1871."

This Act seems unobjectionable, with the exception of the use of the word "offence" in the 8th Section. The attention of the Lieutenant-Governor should be called to this word.

No. 19.—"An Act to amend the Law relating to Procedure at Election of Members of the Legislative Assembly of British Columbia."

The 11th Section is as follows:—

Every person who,—

"(1.) Forges or counterfeits, or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or

"(2.) Without due authority, supplies any ballot paper to any person; or

"(3.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or

"(4.) Fraudulently takes out of the polling station any ballot paper; or

"(5.) Without due authority, destroys, takes, opens or otherwise interferes with any ballot box, or packet of ballot papers then in use for the purposes of the Election, or

"(6.) Opens and exhibits his ballot paper to any one, after having duly marked the same, preparatory to depositing it in the ballot box—

"Shall upon a summary conviction before a Justice of the Peace, be liable to a fine not exceeding one hundred dollars, or to imprisonment for any term, not exceeding twelve months, if he is a returning officer, or an officer or clerk in attendance at a polling station, and if he is any other person, to imprisonment for any term not exceeding six months, any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable."

The 1st Sub-section in so far as it relates to the forging or counterfeiting of ballot papers clearly entrenches upon the Criminal Law. The word "offence" also occurs in this section and in the 12th Section. I recommend that the attention of the Lieutenant-Governor be called to these remarks with a view to an amendment of the objectionable parts.

The 23rd Section is as follows:—

"The provisions of the 'Election Regulation Act, 1871' as regards personation apply to personation under this Act, in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act."

On turning to the Election Regulation Act, 1871, the provisions as regards personation appear to be contained in the 67th, 68th and 69th Sections.

These sections provide that any person knowingly personating and falsely assuming to vote in the name of any other person shall be guilty of a misdemeanor, and on being convicted thereof shall be liable to a certain fine or imprisonment. That the returning officer, if he has reason to suspect that any person is personating, &c., may require such person to sign his name in a book, and any person signing the name of an elector, not being his own name, shall be guilty of forgery, and liable on conviction to be punished accordingly, and that any such person who being unable to write shall fix his mark to the name of any elector not being his own name, shall be guilty of forgery and liable on conviction to be punished accordingly. The attempt to incorporate these provisions in the Act now under consideration clearly entrenches on the Criminal Law.

I recommend that the attention of the Lieutenant-Governor be called to this, in order that the objection may be removed by amendment before the time expires within which the Act may be disallowed.

No. 20.—"An Act to authorize a loan of £150,000."

No. 21.—"An Act relating to the powers of the Judges of the Supreme Court to establish a tariff of costs and to make rules of practice."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

No. 22.—"An Act to provide for the better Administration of Justice."

I propose to report upon this Act at a future time.

No. 23.—"An Act for giving appeals from Convictions or Orders of Justice of the Peace in certain cases to the County Court."

This Act appears unobjectionable and I recommend that it be left to its operation.

No 24.—"An Act to consolidate the laws relating to the legal Profession in this Province."

I propose to report upon this Act at a future time.

No. 25.—"An Act to amend the Consolidated Public School Act, 1876."

No. 26.—"An Act to repeal the Land Act Amendment Act, 1876."

No. 27.—"An Act respecting short forms of mortgages in British Columbia."

No. 28.—"An Act for providing in certain cases for the distribution of the estates of persons dying intestate and leaving property in the Province."

No. 29.—"An Act relating to the 24th Geo. II, Cap. 40."

These Acts appear unobjectionable, and I recommend that they be left to their operation.

No. 30.—"An Act to prohibit the sale or gift of intoxicating liquors to minors and to prevent the frequenting of liquor saloons by such persons."

The word "offence" appears in the 3rd Section of this Act, and with this exception the Act appears unobjectionable.

No. 31.—"An Act for the relief of Andrew Ostrice, of Victoria."

Although some objection has been taken to this Act its provisions seem to be quite within the legislative powers of the Province, and I recommend that it be left to its operation.

No. 32.—"An Act to incorporate the Alexandra Company, Limited."

The 1st Section of this Act provides that certain persons shall be a body corporate for the purpose of carrying on the business of corning and curing meats, &c., for engaging in their production and growth, and for the manufacture of hides, leather, soap and candles, and doing all things appertaining thereto or connected therewith, in the Province of British Columbia or elsewhere, and shall be capable in law of contracting and being contracted with, suing and being sued, pleading and being impleaded in any Court of Law or Equity within the Province of British Columbia or elsewhere.

The 18th Section provides that the Company shall have power, among other things, to charter, navigate and maintain ships, steamers, &c., for the carrying and conveying of goods and passengers or other traffic between the ports of British Columbia and elsewhere in Canada, and oceans, lakes, rivers or high seas, or other navigable waters thereof, or from any port or ports in British Columbia or elsewhere in Canada, to any foreign port or ports, or from one foreign port or ports to any port or ports of British Columbia or elsewhere in Canada, and upon the oceans, rivers, lakes or high seas or other navigable waters whatsoever.

The 21st Section gives the Company power to appoint resident agents at any port or place within the Province of British Columbia or elsewhere, for the purpose of effecting purchases and sales and attending to the general interests of the Company.

The power of the Local Legislature to incorporate a company is to be found in the 11th Sub-section of Section 92, British North America Act, 1867. Such power is confined to the incorporation of companies "with Provincial objects." It appears to me that some, at least, of the powers conferred upon this Company are not confined to Provincial objects. The Company is not only incorporated for the purpose of carrying on its business in British Columbia, but the words "or elsewhere" are added, which would apparently enable them to carry on business over the whole Dominion and also in other countries. The power to charter, navigate and maintain ships, steamers, &c., for the carrying and conveying of goods and passengers or other traffic to the wide extent above mentioned clearly exceeds any fair construction of the words "with Provincial objects." In fact the attempt to authorize this Company to carry on so extended a traffic seems to be in direct conflict with the 10th Sub-section of Section 92, which enables the Local Legislature to make laws in relation to local works and undertakings, other than such as are of the following classes, namely:—

"Lines of steam or other ships, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province lines of steamships between the Province and any British or foreign country."

Legislation of a nature similar to this which has taken place in other Provinces of the Dominion has been objected to, and has been either disallowed or subsequently amended or repealed.

I recommend that the attention of the Lieutenant-Governor be called to the objectionable features of this Act to the end that his Government may, at the next Session, and before the time expires within which it must, if not amended, be disallowed, promote such legislation as may be necessary to amend the Act in such a manner as will confine the objects of the Company to such matters as may be within the legislative authority of the Provincial Legislature.

It is doubtful whether the provisions of the 21st Section, giving the Company power to appoint a resident agent at any place within British Columbia or elsewhere, for the purpose of effecting purchases and sales, and attending to the general inter-

sts of the Company, are within the authority of the Local Legislature. If, however, the objects of the Company be confined to Provincial objects, within the meaning of those words in the British North America Act, the power thus given would not appear to be objectionable.

No. 33.—"An Act to incorporate the British Columbia Insurance Company, Limited."

This Act by Section 1 incorporates certain persons for the carrying on the business of fire and marine insurance, and doing all things appertaining thereto or connected therewith, in the Province of British Columbia and elsewhere.

Section 18 gives the Company power to make contracts of insurance with any person against loss or damage by fire, or lightning on any house, store or other building whatsoever, and, in like manner, on any goods whatsoever, and to make contracts of insurance with any person against loss or damage by fire, storm or tempest, or from any other cause, of or to ships, boats, vessels, steamboats or other craft navigating the oceans, lakes, rivers, or high seas, or other navigable waters whatsoever, from any port or ports in Canada to any other port or ports in Canada, or to any foreign port or ports upon the oceans, lakes, rivers or other navigable waters aforesaid, or from one foreign port to another foreign port, or from any foreign port or ports to any port or ports in Canada or elsewhere, upon all or any oceans, lakes, rivers and navigable waters aforesaid, and against any loss or damage of or to the cargoes or property conveyed in or upon any such ships, &c., and the freight due or to grow due in respect thereof, or of, or to timber or other property of any description conveyed in any manner upon any of the oceans, seas, &c., or on any railway, or stored in any warehouse or railway station, and generally to do all matters and things relating to or connected with fire and marine insurance.

The 21st Section empowers the Company to appoint resident agents at any place within the Province of British Columbia, or elsewhere, for the purpose of effecting at such places marine insurance upon ships, freights and cargoes, and insurance against losses by fire on buildings and other property, and to appoint and establish local agencies and local Boards of direction or of supervision, and gives the Company power to comply with the laws of any Province, State or country wherein it proposes to carry on business, so far as such laws are not inconsistent with the provisions of the Act.

The powers thus proposed to be conferred by this Act appear to be too wide, as the Company is in effect authorized to do a universal insurance business.

I refer to the remarks just made upon the preceding Act which are here applicable.

Acts similar to the one now under consideration were passed by other Provinces, but were objected to and amended or disallowed.

I refer to the Report of the Minister of Justice of the 15th September, 1876, upon certain Acts passed by the Legislature of Nova Scotia, 38 Vic. (1875), where remarks are made and extracts given from other Reports upon this subject.

I recommend that a similar course be taken with this Act to that which has been recommended with reference to the preceding one.

The 9th Section empowers the Company to invest its funds in the public securities of the Dominion of Canada, or of any of the Provinces thereof, or of any foreign State or States when required for the carrying on business in such foreign State, or in the stocks of any chartered banks or building societies, or in the bonds or debentures of any incorporated city, town, &c., or in mortgages of real estate, in such manner and at such rate of interest as may be agreed upon, not exceeding the rate allowed by law in the Provinces where the investment is made.

The objections above pointed out apply to this clause so far as it refers to the carrying on of business in a foreign city, and the power to invest at such rate of interest as may be agreed upon seems to be *ultra vires* of the Provincial Legislature, inasmuch as the subject of interest comes within the exclusive Legislative authority of the Parliament of Canada, as, however, the existing law relating to interest in British Columbia appears to enable parties to agree upon any rate, and as the pro-

vision of this section confines the parties to any rate not exceeding the rate allowed by law in the Province, no inconvenience is likely to arise from this provision.

No. 34.—"An Act for granting certain sums of money required for defraying the expenses of Civil Government for the year 1877, and for the making good certain sums expended in the Public Service in 1876, and for other purposes."

This Act appears unobjectionable, and I recommend that it be left to its operation.

No. 35—"Reserved Act."

In addition to the above Acts of the Legislature of British Columbia, a Bill was passed intituled: "An Act to amend the Gold Mining Amendment Act, 1872," which Bill was reserved by His Honor the Lieutenant-Governor, for the signification of the pleasure of His Excellency the Governor General thereon. The Act is as follows:—

"Every Mining Court in this Province shall, in addition to its present jurisdiction, have jurisdiction in all personal actions arising within the limits of its district, and the Gold Commissioner presiding in any such Court shall have the like powers to enforce any judgment, decree, rule or order of such Court as are conferred by Section 12 of the Gold Mining Amendment Act, 1872. The provisions of this Act shall only have effect in the Electoral District of Kootenay, and in that part of the Province known as Cassiar."

The Attorney-General of the Province reported upon this Act to the Lieutenant-Governor as follows:—

"This Act gives jurisdiction in all personal actions to the Gold Commissioners in Kootenay and Cassiar, and appears to trench upon the provisions of 96th Section of the British North America Act, which vests the appointment of the Supreme and County Court Judges in the Governor General alone, inasmuch as it provides that the paid employés of the Local Government in the district aforesaid shall have and exercise almost as much power as a Supreme Court Judge. As I think this Legislature has not the power in effect to make these appointments, I would suggest that the Act be reserved for the consideration of His Excellency the Governor General."

I refer to the remarks made upon the Mining Court in connection with the 11th Section of Act No. 14. This Bill is an illustration of the danger I have above alluded to, as if it became law the jurisdiction of the Mining Court in the districts referred to will be greater than the jurisdiction of the County Court, and equal to that of the Supreme Court. It might be convenient that a somewhat extended jurisdiction should be given to a District Court or Magistrate in the Districts of Kootenay and Cassiar, thereby avoiding the expense and delay attendant upon a Judge of the Supreme Court travelling to these distant part of the Province for the purpose of holding an Assize, and it is probable that this Bill was passed with that object in view. I would mention, however, that even were this Bill assented to it would be necessary for a Supreme Court Judge to proceed to the District mentioned for the trial of criminal cases. Upon the whole, I recommend the assent of the Governor General be not given to this Bill, which, in fact, should have been disposed of by the Local authorities themselves.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 12*th October*, 1877.

The Committee have had before them the Report of the Honorable the Minister of Justice, dated 29th September, 1877, upon the Acts passed by the Legislature of the Province of British Columbia, in the 40th year of Her Majesty's reign (1877),

and they concur in the several recommendations that the Acts reported to be unobjectionable be left to their operation, that the Act reserved by the Lieutenant-Governor, intituled: "An Act to amend the Gold Mining Amendment Act, 1872," be not assented to, and that the attention of the Lieutenant-Governor of British Columbia be called to the several Acts to which objection is taken in the Report of the Minister of Justice, and that with that view that a copy of said Report be transmitted to the Lieutenant-Governor.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 21st February, 1878.

I have now the honor to report upon two Acts passed by the Legislature of British Columbia in the Session of 1877, which have not yet been reported upon, namely:—

No. 22.—"An Act to provide for the better Administration of Justice."

This Act comes into operation only upon the proclamation of the Lieutenant-Governor in Council published in the British Columbia *Gazette*. It has not, so far as I can ascertain, been yet proclaimed.

It establishes County Courts for certain districts in the Province and provides by Section 9, that each Court shall be holden before a Judge to be called the Judge of the County Court of (as the case may be). That each such Judge shall be appointed by the Governor General of Canada, and shall hold office during the pleasure of the Governor General.

Upon this provision I may remark that in other Provinces where County Court Judges have been appointed, the tenure of their office has been declared to be during good behavior, but in the present state of the County Courts in the Province of British Columbia, it is probably better that the Judges of the County Court should, as declared by this Act, hold office during the pleasure of the Governor General.

The only other provision of this Act which calls for special remark is Section 27, which is as follows, viz.:—"And, whereas, the Governor General of Canada, on the 27th day of April, 1871, referred the question of retiring allowances of certain officers in British Columbia to the decision of Her Majesty's Secretary of State for the Colonies who, on the 30th June, 1871, gave his decision, stating that the present incumbents of the County Court Bench should not be removed unless and until they received from the Dominion Government either suitable employment of at least equal value, or an annual allowance of two-thirds of five hundred pounds: therefore, it is provided that the present incumbents of the County Court Bench shall not be removed except on the terms aforesaid for the purpose of appointing professional men."

One of the provisions in the terms agreed upon for the Confederation of the Province of British Columbia is as follows:—

"Suitable provisions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Colony, whose position and emoluments derived therefrom would be affected by political changes in the admission of this Colony into the Dominion of Canada."

It seems to be necessary to a proper understanding of the position of the present incumbents of the County Court Bench to refer to the documents connected with the question of retiring allowances of certain officers in British Columbia, including the County Court Judges, in respect of which communication was had with Her Majesty's Secretary of State for the Colonies.

On the 6th February, 1871, the Executive Council of the Province of British Columbia passed a Minute which was transmitted to the Governor General of Canada

by Governor Musgrave of British Columbia, by Despatch of the 9th February, 1871.

This Minute of Council refers to the cases of

1. The Colonial Secretary.
2. The Attorney-General.
3. The Commissioner of Land and Works.
4. The Collector of Customs.
5. The Auditor-General.
6. The Six Stipendiary Magistrates.

And states "That the Committee gather that the Canadian Government are prepared to retain Nos. 3 to 6 in their present situations or similar ones."

The Minute further states that "inasmuch as by the Minute of the Privy Council of Canada two-thirds of the present emoluments have been mentioned, the Committee would suggest that a sum exceeding two-thirds the actual salary of the Officer should be fixed in order to compensate such Officer for any other emoluments of which he might be deprived, namely:—

Colonial Secretary	£600	per annum.
Commissioner of Lands and Works	600	do
Collector of Customs	600	do
Six Stipendiary Magistrates	350	do
Auditor-General	350	do

On the 26th April, 1871, a Report from the Honorable the Minister of Finance, dated 24th April, 1871, upon the subject, was approved by the Governor General in Council, and the recommendations therein submitted adopted. This Report was made upon a Despatch from Governor Musgrave, dated 9th February, 1871.

The Minister of Finance in his Report dealt with the case of the several Officers in the employment of the British Columbia Government. As to the case of Stipendiary Magistrates, the Minister remarked: "It appears that no difficulty exists as to the Stipendiary Magistrates, who are to continue to serve at their present salaries." And in concluding his Report the Minister recommended that the Papers and Despatches bearing upon the subject should be transmitted to Her Majesty's Principal Secretary of State for the Colonies: "With a request that Her Majesty's Government will decide how the Officers in British Columbia are to be dealt with under the 6th Section of the Terms of Confederation with British Columbia."

On the 27th April, 1871, the Governor General accordingly transmitted to the Secretary of State for the Colonies the Papers referred to, and on the 3rd June, 1871, the Secretary of State replied, and in reference to the Stipendiary Magistrates wrote as follows:—

"Your Privy Council remark that no difficulty appears to exist as to the Stipendiary Magistrates, who are to continue to serve at their present salaries. I understand from this that your Government concur in and accept the proposals of Governor Musgrave as contained in Paragraphs 3 to 8 of his Despatch No. 30, of 22nd November last, and that whenever, from any cause, any of them ceases to hold his present employment he will receive either suitable employment of at least equal value, or an annual allowance of two-thirds of £500. I do not, however, consider that the Stipendiary Magistrates have the same claim as the other superior Officers of the Government, to the option of retiring at present upon a pension. I look upon them, to use Governor Musgrave's words, 'as a class apart,' whose position is not necessarily affected by political changes on the admission of British Columbia into the Union."

It will be observed that the recital in the section now under consideration as to the decision of the Secretary of State for the Colonies is inaccurate, and were the section, in providing "that the present incumbents of the County Court Bench should not be removed except on the terms aforesaid, for the purpose of appointing professional men," within the powers of the Provincial Legislature, the inaccuracy in the recital of the decision of the Secretary of State for the Colonies would be a sufficient reason for disallowing the Act were it not amended, but I am of opinion that the enactment is *ultra vires* of the Provincial Legislature, inasmuch as it assumes to limit the power of the Dominion Government in respect of the retirement or removal of Officers appointed, paid by, and holding office during the pleasure of the Government of Canada.

I say nothing as to the implied want of confidence in the good faith of the Dominion Government contained in the section, as it is unnecessary to deal with it upon that ground.

I recommend that the attention of the Lieutenant-Governor be called to these remarks, and that he be asked to request his Government to promote, at the present Session of the Legislature, the repeal of the section.

I recommend further that unless the section be repealed before the time for disallowance of the Act expires, the Act be disallowed.

Cap. 24.—"An Act to consolidate the laws relating to the Legal Profession in this Province."

The provisions of this Act place certain restrictions, which did not previously exist, upon the admission of Barristers and Attorneys to practice in the Courts of the Province, and although the wisdom of these restrictions, in the present limited state of the Legal profession in British Columbia, may be questioned, yet, as the subject matter of the Act comes within the legislative authority of the Provincial Legislature, the power of disallowance could not properly be exercised in respect of the Act, unless some Dominion interests were prejudiced thereby. The only way in which it could be said that Dominion interests would be prejudiced by the Act would be in reference to the appointment of Judges to the Courts of the Provinces, if those Judges had to be selected from the Bar of the Province.

After carefully considering the provisions of the British North America Act, as made applicable to British Columbia, by the terms upon which that Province entered Confederation, I am of opinion that the selection of Judges for British Columbia is not confined to the Bar of that Province. This, no doubt, was the opinion of the Minister of Justice at the time that Mr. Justice Gray, of the New Brunswick Bar, was appointed a Judge of the Supreme Court of British Columbia, and such being the case, the Act appears to me to be one which should be left to its operation, and I recommend accordingly.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 28th February,* 1878.

The Committee have had under consideration a Report dated 21st February, 1878, from the Honorable the Minister of Justice, upon two Acts passed by the Legislature of British Columbia, in the Session of 1877, which have not yet been reported upon, namely :—Chap. 22 : "An Act to provide for the better Administration of Justice," Chap. 24 : "An Act to consolidate the laws relating to the Legal Profession in this Province," and on the recommendation therein submitted, they advise that Chap. 24 of the said Acts be left to its operation, and with reference to Chap. 22, that the attention of the Lieutenant-Governor be called to the remarks contained in said Report, and that he be asked to request his Government to promote, at the present Session of the Legislature, the repeal of the Section therein alluded to, and that, unless the Section be repealed before the time for disallowance of the Act expires, the Act be disallowed.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 27th March, 1878.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 2nd instant, enclosing therewith a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, upon two of the Acts passed by the Legislature of this Province, in the Session of 1877, viz., Chaps. 22 and 24.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. R. W. SCOTT,
Secretary of State.

Deputy Minister of Justice to Under Secretary of State.

OTTAWA, 26th April, 1878.

The Secretary of State will please send the following telegram to the Lieutenant-Governor of British Columbia, namely:—

"I am desired to ask what action (if any) has been taken in reference to the objections made to certain provisions of certain Statutes passed by the Legislature last year. Time for disallowance expires 22nd May; please reply first mail."

Z. A. LASH,
Deputy Minister of Justice.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B. C., 1st May, 1878.

SIR,—In answer to your telegram of yesterday, I have the honor to inform you that the 27th Section of the County Court Act, 1877, has not been repealed as suggested in the Order of Council of His Excellency the Governor General, of the 28th of last February, and forwarded by you in a Despatch to me on the 2nd of March last.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Honorable R. W. SCOTT,
Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th May, 1878.

I have the honor to report:—

That by my Reports of the 29th September, 1877, and 21st February, 1878, respecting the Statutes passed by the Legislature of the Province of British Columbia, in the year 1877, objections to certain Acts were taken and the attention of the Lieu-

tenant-Governor called thereto, with the request that the objections might be removed by repeal or amendment before the time for disallowance expired.

Not having received a copy of the Statutes passed by the Legislature of the Province during the Session which lately closed, and not having been informed by the Lieutenant-Governor as to the action (if any) which had been taken with respect to the objectionable Acts, and the time for disallowance expiring on the 21st May, inst., the following telegram was transmitted by the Secretary of State to the Lieutenant-Governor on the 30th April, last, viz.:—

"Please state what action (if any) has been taken in reference to objections made to certain provisions of certain Statutes passed by your Legislature last year. Time for disallowance expires 22nd May. Reply first mail."

"Nothing done towards repealing objectionable clause. Copy of Acts passed last Session mailed to you on the 24th ultimo. Have written."

On the 8th May, instant, certified copies of the Statutes of British Columbia of last Session were received.

On examining them I find, that with the exception of the following Acts, viz.:—

No. 22.—"An Act to provide for the better Administration of Justice,"

No. 32.—"An Act to incorporate the Alexandra Company, Limited,"

No. 33.—"An Act to incorporate the British Columbia Insurance Company, Limited," all the objections to the Acts of 1877 have been removed by Legislation.

The letter referred to by the Lieutenant-Governor in his telegram of the 2nd instant, has not yet been received, and the time for action being so short, I think it imprudent to wait any longer as the Acts last referred to are very objectionable and exceed the powers of the Local Legislature, and must, in accordance with the suggestion contained in the approved Reports upon them, be disallowed.

No great inconvenience will result from the disallowance of Act No. 22, inasmuch as it has not yet been brought into force; and the other two Acts, Nos. 32 and 33, being for the incorporation of private companies, it is not likely that much inconvenience will result from their disallowance, especially as many of the powers assumed to be conferred upon these companies, are already beyond the authority of a Local Legislature.

I recommend, therefore, that the Acts, viz.:—

No. 22.—"An Act to provide for the better Administration of Justice,"

No. 32.—"An Act to incorporate the Alexandra Company, Limited,"

No. 33.—"An Act to incorporate the British Columbia Insurance Company, Limited," passed by the Legislative Assembly of the Province of British Columbia, in the fortieth year of Her Majesty's reign, A.D. 1877, be disallowed by Your Excellency in Council, and that the necessary proclamation in that behalf be issued.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

Proclamation disallowing the Acts, Chapters 22, 32 *and* 33, *above mentioned.*

GOVERNMENT HOUSE, OTTAWA, Thursday, 16th day of May, 1878.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the eighteenth day of April, 1877, pass the undermentioned Acts, which have been transmitted, intituled as follows, viz.:—

"An Act to provide for the better Administration of Justice;"
"An Act to incorporate the Alexandra Company, Limited;" and
"An Act to incorporate the 'British Columbia Insurance Company, Limited;'"

And, whereas, the said Acts have been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion, that it was not competent for the Legislature of the Province of British Columbia, to pass such Acts, and therefore, recommending that the said Acts should not receive the confirmation of the Governor General;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Acts, and the same are hereby disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor General of Canada, do hereby certify that the Acts passed by the Legislature of the Province of British Columbia, the eighteenth day of April, 1877, intituled:—

"An Act to provide for the Administration of Justice;"
"An Act to incorporate the Alexandra Company, Limited;" and
"An Act to incorporate the British Columbia Insurance Company, Limited,"

were received by me, on the twenty-second day of May, A.D. 1877.

Given under my hand and seal this sixteenth day of May, 1878.

DUFFERIN.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 3rd June, 1878.

SIR—I have the honor to acknowledge the receipt of your Despatch of the 20th ultimo, enclosing, for the information of my Government, an Order of His Excellency the Governor General in Council declaring His Excellency's disallowance of the Acts therein enumerated, passed by the Legislature of this Province in the Session of 1877, and in the fortieth year of Her Majesty's reign.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Honorable R. W. SCOTT,
Secretary of State.

BRITISH COLUMBIA, 42–43 VICTORIA, 1878.

3RD SESSION, 2ND PARLIAMENT—1ST SESSION, 3RD PARLIAMENT.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 24th April, 1878.

SIR,—I have the honor to enclose you, herewith, for the information of His Excellency the Governor General of Canada, a certified copy of all the Acts passed at the last Session of the Legislative Assembly of this Province, and to which I assented in Her Majesty's name on the 10th instant.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Honorable R. W. SCOTT,
Secretary of State.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 20th September, 1878.

SIR,—I have the honor to enclose you, herewith, for the information of His Excellency the Governor General of Canada, a certified copy of all the Acts passed at the last Session of the Legislative Assembly of the Province, and to which I assented, in Her Majesty's name, on the 2nd instant.

Also, a Report of the Attorney-General of the Province upon the said Acts, addressed to me and dated 2nd, 8th and 10th of this month.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Honorable R. W. SCOTT,
Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd July, 1879.

I have the honor to report upon eighteen Acts passed by the Legislature of the Province of British Columbia, during the Session held in the spring of 1878, the titles of which are as follows:—

"An Act to amend the 'Power of Attorney Act, 1875.'"

"An Act to amend the 'Qualification and Registration of Voters Act, 1876.'"

"An Act to amend the 'Coal Mines Regulation Act, 1877.'"

"An Act to amend certain Acts relating to Municipalities (Cap. 129 of the Consolidated Statutes of British Columbia)."

"An Act to encourage the mining of gold-bearing Quartz."

"An Act to amend the 'Ballot Act, 1877.'"

"An Act for the protection of certain Animals and Birds in British Columbia."

"An Act relating to Corporations."

"An Act for dyking and reclaiming certain lands at Chilliwhack, Sumass and Matsqui."

"An Act to incorporate the British Columbia Express Company."

"An Act to incorporate the Moodyville Saw Mill Company, Limited."

"An Act to incorporate the British Columbia Milling and Mining Company."

"An Act for the better regulation of traffic on the highways of British Columbia."

"An Act to amend the 'Consolidated Public School Act, 1876,' Cap. 142, Con. Stat. 1877."

"An Act relating to Minerals, other than coal, found in lodes or veins, and to amend the Gold Mining Ordinance, 1867." (Con. Stat., Cap. 123.)

"An Act to amend the 'School Tax Act, 1876.'" (Con. Stat., Cap. 43.)

"An Act to amend the 'Sheriffs Act, 1873.'"

"An Act for granting certain sums of money required for defraying the expenses of Civil Government for the half-year ending 30th June, 1878, and for other purposes."

With the exception of the Act intituled: "An Act for dyking and reclaiming certain lands at Chilliwhack, Sumass and Matsqui," the above Acts appear unobjectionable, and should be left to their operation.

I was given to understand by the Deputy of the Minister of the Interior that the provisions of the Act last mentioned conflicted with an understanding entered into by the Department of the Interior with the British Columbia Government.

The Act was therefore sent to him for his remarks. After communication with the Indian Agent in British Columbia, and with the British Columbia Government, the objections to the Act have, I am informed, been removed, and the Department of the Interior have reported that the Act may be left to its operation.

I recommend, therefore, that the eighteen Acts above mentioned be left to their operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 1st *August*, 1879.

The Committee have had before them a Report dated 2nd July, 1879, from the Hon. the Minister of Justice, upon eighteen Acts passed by the Legislature of the Province of British Columbia during the Session held in the spring of 1878, the titles of which are mentioned in said Report, and they concur in the recommendation that the said Acts be left to their operation.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th March, 1879.

Referring to the Act passed by the Legislature of the Province of British Columbia, in the year 1878, known as the better Administration of Justice Act, 1878, I have the honor to report: —

That having considered the same, I recommend that it be left to its operation.

JAS. McDONALD,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council, on the* 17*th March,* 1879.

On the recommendation of the Hon. the Minister of Justice the Committee advise that the Act passed by the Legislature of British Columbia in the year 1878, known as "The Better Administration of Justice Act, 1878," be left to its operation.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Collector Hamley to Lieutenant-Governor British Columbia.

CUSTOM HOUSE, VICTORIA, 2nd September, 1878.

SIR,—In the report of the proceedings in the House of Assembly on Friday last, Mr. Galbraith is stated to have said that the Bill to disfranchise Custom Officers and others, was brought forward in accordance with the wishes of those persons themselves. As far as the Custom House is concerned, no statement could be more inconsistent with the truth. I have never spoken a word to Mr. Galbraith, or to any other member of the House, on the subject, nor has anyone employed in the Custom House here, and to prevent misunderstanding in a matter that may at some future time be of importance, I shall be glad if you will be so good as to forward this letter, with the Bill, for the consideration of the Canadian Government.

I have, &c.,

W. HAMLEY,
Collector of Customs.

His Honor
The Lieutenant-Governor.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 4th September, 1878.

SIR,—At the request of the Hon. W. O. Hamley, Collector of Customs, I have the honor to enclose you a copy of an "Act to amend the Qualification and Registration of Voters Act, 1876," also a letter from the Hon. W. O. Hamley addressed to me,

which he also requested me to forward you for the information of the Dominion Government.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. R. W. SCOTT,
Secretary of State.

Petition from Government Officials at Victoria, B. C., to Governor General.

To His Excellency the Right Honorable Sir FREDERICK TEMPLE HAMILTON BLACKWOOD, Earl of Dufferin, Governor General of Canada and Vice Admiral of the same:

MAY IT PLEASE YOUR EXCELLENCY :—

We, the undersigned, residing in Victoria, British Columbia, for ourselves and for others resident in other parts of the Province, and holding office under the Government of the Dominion of Canada, beg most respectfully to pray that Your Excellency will be graciously pleased to take into consideration, with a view to the relief of your Memorialists, the Act recently passed by the Legislature of this Province and assented to by His Honor the Lieutenant-Governor, intituled: "The Qualification and Registration of Voters Act (1876) Amendment Act, 1878," upon the following grounds:—

1. That the civil rights of the Officers of the Dominion Government in this Province are seriously affected by this Act.

2. That it is arbitrary and unjust, if not unconstitutional, for the Provincial Legislature to deprive the Officers of the Dominion Government in this Province, of the right to vote at the election of Members to serve in the Dominion or Provincial Parliaments, and that it is a flagrant outrage upon their common rights as British subjects to make the mere expression of opinion, or intimation of feeling, a penal offence punishable by fine or imprisonment.

3. That we were astonished to hear, and most emphatically deny the allegation made by the introducer of the Bill in the Legislature (Mr. Galbraith) to the effect that we desired to be deprived of the franchise.

4. That practically manhood suffrage obtains in this Province; that many of us have large landed interests in the country, and have enjoyed and exercised in it, for more than twenty years, the right of voting at elections for Members of Parliament, and that we now find ourselves disfranchised by the passage of this Act.

And your memorialists will ever pray.

R. B. McMICKING,
Gen. Sup. Dom. Gov. Telegraphs in B. C.,
ALEX. C. ANDERSON,
Inspector of Fisheries, British Columbia,
R. F. McDONELL,
District Store-keeper,
THOS. WESTGARTH,
Steamboat Inspector,
And others.

By Telegraph from Matsqui, B.C., to Superintendent-General of Indians Affairs.

OTTAWA, 9th May, 1879.

Mr. Derby the principal in the Dyking Scheme has agreed in writing not to set up any claim under Dyking Act to lands which I may assign to Indians, and therefore beg that Dominion Government will not disallow Act. Provincial Government has done nothing. I therefore submit the above method for adjustment.

J. P. SPROAT.

Lieutenant-Governor British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 3rd July, 1879.

SIR,—I have the honor to enclose to you herewith a petition addressed to His Excellency the Governor General in Council, by Mr. E. L. Derby, and which I have been requested to forward.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. J. C. AIKINS,
Secretary of State.

Petition of Mr. E. L. Derby to Governor General.

To His Excellency the Most Noble the Marquis of Lorne, Governor General of Canada, in Council Assembled:—

The humble Petition of Ellis Luther Derby, of Riverside, British Columbia,—

SHEWETH:

That your Petitioner, in 1878, obtained the passage of an Act through the House of Assembly of British Columbia, intituled: "An Act for dyking and reclaiming certain lands at Chiliwhack, Sumass and Matsqui."

By that Act certain dyking works were to be carried out and the costs of preparing plans and specifications, in pursuance of the said Act, were to be paid by your petitioner.

The said Act was brought in as a private Act and all expenses connected therewith were paid by your petitioner, in pursuance of the Standing Orders of the House of Assembly of British Columbia.

Your petitioner immediately, on the passage of the said Act, commenced work, and has expended a large amount of money in carrying out the objects and intention of the said Act.

On the 29th day of April, 1879, an Act was passed by the Legislative Assembly, without any intimation or notice to your petitioner, intituled: "An Act respecting the Sumass Dyking Act, 1878."

By this Act, under Section 1, your petitioner is compelled to pay additional costs of survey over those contemplated by him, when he first undertook the work, and by the 3rd Section, in the event of your petitioner failing or refusing to refund the costs of surveys or to carry out the instructions of the Chief Commissioner in the construction of the dyking works, the Governor in Council shall have power to confiscate the whole of the works.

The Government of British Columbia now claim from your petitioner, under the provisions of the last mentioned Act, certain expenses incurred by the Government

prior to the plans and specifications referred to in the first mentioned Act, and the Government further claim the right to impose burdens on your petitioner, never contemplated by him, when he commenced the said works.

Your petitioner, therefore, prays Your Excellency, that assent may be refused to the said Act.

And your petitioner will ever pray.

ELLIS LUTHER DERBY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th September, 1879.

Upon the reference from the Department of the Secretary of State, with petition of E. L. Derby, for disallowance of an Act of the British Columbia Legislature, respecting the "Sumass Dyking Act, 1878," I recommend that a copy of such petition be sent to the Government of the Province, and that they be asked to make such remarks in reply thereto as may be thought proper.

Z. A. LASH,
Deputy Minister of Justice.

Lieutenant Governor Richards to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, 19th November, 1879.

SIR,—Referring to a Despatch from the Under Secretary of State, No. 2,218 on 1,304, of the 10th September last, enclosing a copy of a petition from Mr. E. L. Derby, addressed to His Excellency the Governor General, praying for the disallowance of the "Sumass Dyking Act, 1878," I have now the honor to enclose, according to the request put forth in the said Despatch, a copy of a Minute of my Executive Council, together with other documents therein referred to, by which it will be seen that my Executive Council respectfully request that the said Act may be allowed to take its course, and that the prayer of Mr. Derby's petition be refused.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. J. C. AIKINS,
Secretary of State.

Report of Mr. Attorney-General Walkem.

VICTORIA, B.C., 11th November, 1879.

The undersigned, to whom has been referred a copy of a Petition forwarded by Mr. E. L. Derby to His Excellency the Governor General, praying that "An Act respecting the Sumass Dyking Act, 1878," should be disallowed, has the honor to make the following Report upon the statements contained in the Petition:—

The above mentioned Act was passed by the Legislative Assembly in 1879, without a division, and with the support and unequalified approbation of the Members of the City and District of New Westminister, whose constituents were and are most immediately and deeply interested in Mr. Derby's success.

The scheme of reclaiming and dyking the inundated lands of New Westminster District was first practically considered by the Government in 1876, when they spent $900 on surveys and plans of the work. No portion of this outlay has ever been charged to or claimed from Mr. Derby, although he reaped the advantage of it. Subsequently, Mr. Derby applied for a charter for the work, alleging that he had the means to carry out the project. Further surveys were made and elaborate plans prepared at his request and on his behalf under the supervision of the Lands and Works Department, Mr. Derby having first agreed to pay for them. The agreement is embodied in Section 36 of Mr. Derby's Act of 1878, and has not been changed. The amending Act of 1879 simply gives the Government more specific powers for collecting the money as Mr. Derby had repeatedly endeavored to evade its payment.

Both the late and present Government, as well as the Committee on Private Bills, were united in opinion upon Mr. Derby's liability. The question is, however, now set at rest as Mr. Derby paid the amount in dispute some weeks ago.

The further provisions in the Act of 1879, which confer upon the Lieut.-Governor in Council the power of cancelling Mr. Derby's Charter in the event of his neglecting or refusing to comply with its conditions, do not differ from the provisions of Section 34 of the Act of 1878. It will be seen that under this section it is enacted that, on failure of Mr. Derby to carry out the agreement contained in the Act (of 1878), the Lieut.-Governor in Council may cancel it, and transfer all of Mr. Derby's privileges to any other person with a view of securing the completion of the works.

The principal conditions of the agreement are set forth in Sections 11, 12 and 13 of this Act, whereby Mr. Derby agreed to effectually dyke certain lands mentioned, according to Plans approved of by the Government and to perform the work as appears in the last sentence of Section 13, under the supervision of the Lands and Works Department, or its Engineer, whose expenses were and are to be paid by Mr. Derby.

Soon after the commencement of the work by Mr. Derby complaints of delay, neglect and defiance of the orders of the Superintending Engineer, were frequently made against him by the settlers interested in the scheme, and by the Engineer himself. Annexed are extracts from some of the numerous letters and reports of the latter which will show the extent, and, in some cases, the disastrous result of Mr. Derby's mismanagement, as well as the almost habitual disregard with which he treated the Engineer's directions and the orders of the Lands and Works Department. Ample reasons for the cancellation of the Charter were from time to time placed before the Government, but consideration for those who had been induced by Mr. Derby to invest their means in the enterprise influenced the Chief Commissioner against recommending such a step.

As a milder and more lenient alternative, the Act of 1879 was submitted to, and unanimously approved of by the House, in order that Mr. Derby might clearly understand the duties he had undertaken to perform. The only real difference between the two Acts is, that by the first the Government are invested with the power of cancelling Mr. Derby's Charter and transferring its privileges to others; while by the second they are entitled to cancel and take the benefit of the Charter themselves. Such a difference could not possibly affect Mr. Derby in the event of his loss of the Charter, and can therefore form no ground of complaint on his part.

It may be further observed that at the present time Mr. Derby has, owing to his own negligence, as the Superintending Engineer states, been obliged to apply for an extension of the period fixed, viz., July, 1880, for the completion of his work.

Since the passing of the Act of 1879, more diligence and earnestness have been shown in the prosecution of the work; and it may be remarked that had the work received during 1878 anything approaching the same attention, as it now receives, the Legislature would not in all probability have been moved to interfere in the matter. The Act complained of will directly benefit the Dominion Government as any vacant or reclaimed Crown lands within the proposed lines of dykes becomes their property as part of the Canadian Pacific Railway belt. The only interest the Prov-

ince now has in the scheme is to see, on behalf of the settlers in the dyking district, that Mr. Derby carries on his agreement in good faith.

The Statement made in Mr. Derby's Petition that the Act of 1879 imposes new burdens is manifestly incorrect and is refuted by the Act itself.

The undersigned, therefore, recommends that His Excellency the Governor General be respectfully moved to refuse the prayer of Mr. Derby's Petition and allow the Act of 1879 to take its course.

GEO. A. WALKEM,
Chief Comr., and Attorney-General.

COPY *of a Report of a Committee of the Honorable the Executive Council, approved by His Excellency the Lieutenant-Governor on the 11th day of November*, 1879.

The Committee of Council having considered the statements contained in the Petition of Mr. E. L. Derby to His Excellency the Governor General, praying that "An Act respecting the Sumass Dyking Act, 1878," should be disallowed, and the Memorandum thereupon of the Hon. the Chief Commissioner of Lands and Works, dated the eleventh day of November, advise approval of the recommendation of that Minister, that His Excellency the Governor General be respectfully moved to refuse the prayer of Mr. Derby's petition and allow the said Act to take its course.

The Committee further advise that a copy of this Minute (if approved) together with copies of the Minister's Memorandum and annexed documents be forwarded to the Hon. the Secretary of State.

J. M. HUMPHREYS,
Clerk Executive Council.

By Telegraph from Victoria, B.C., to the Secretary of State.

VICTORIA, B.C., 19th August, 1878.

Legislature has imposed poll tax forty dollars on all Chinamen in Province. Tax not payable by other foreigners. Believed to be unconstitutional. Chinese merchants here pray that the Lieutenant-Governor be instructed to withhold assent, and reserve Bill for consideration of Governor General. Petition, &c., will be forwarded.

A. R. ROBERTSON.

Mr. A. R. Robertson to Secretary of State.

VICTORIA, BRITISH COLUMBIA, 30th August, 1878.

SIR,—I have the honor to forward herewith for the consideration of His Excellency the Governor General, a petition from several Chinese firms in this city, with respect to a Bill recently passed by the Legislative Assembly of British Columbia, imposing a special tax on the Chinese of this Province.

I have, &c.,
A. ROCKE ROBERTSON.

Hon. R. W. SCOTT,
Secretary of State.

Petition of Chinese Merchants to Governor General.

To His Excellency the Governor General of the Dominion of Canada :—

The petition of the undersigned Chinese merchants residing in the City of Victoria, in the Province of British Columbia, in the Dominion of Canada :

HUMBLY SHEWETH :

1. That your petitioners are doing business in the City of Victoria aforesaid.

2. That the annexed Bill, intituled : " An Act to provide for the better collection of Provincial taxes from Chinese " passed its third reading in the Legislative Assembly of British Columbia on the ninth day of August, A.D. 1878.

3. Your petitioners are informed and believe that the said Legislative Assembly will be prorogued in the course of the present week, when the said Act will be assented to and become binding on your petitioners and their fellow-countrymen in British Columbia.

Your petitioners humbly represent for Your Excellency's consideration the following facts, namely :

There are many Chinese mercantile houses in British Columbia which have been established in British Columbia for upwards of fifteen years, and during that period the said houses have contributed large amounts to the public revenue.

Under the laws now in force in British Columbia, all Chinamen residing in the said Province above eighteen years of age are compelled to pay a road tax and a school tax equal to the amounts paid by other residents of the Province, and are in all other respects taxed in the same way by both the Provincial and Municipal Governments, as other residents are taxed. The said school tax and road tax for the present year have been already largely collected from the Chinese in the said Province.

Although the Act referred to in the several paragraphs of this petition does away with the application of the " Assessment Act, 1876," and of the " School Tax Act, 1876," to Chinese, it substitutes a tax which is much more oppressive, inasmuch as :—

1. It is payable by children above twelve years of age.

2. It is a large and arbitrary amount payable by poor and rich alike, and not based upon property or income.

3. It applies to Chinese alone, many of whom are British subjects.

Your petitioners humbly submit that such a tax is inconsistent with, and repugnant to, the treaties existing between Her Majesty the Queen and the Emperor of China.

Your petitioners humbly pray that Your Excellency will be pleased to disallow the said Act.

SING LEE CHAM,	HIE LEE.
WING CHONG & CO.,	TAI YUM,
WO CHIN & CO.,	DONG SONG & CO.,
TAI LOONG & CO.,	TAY CHONG YUEN,
KWONG KONG SING,	KONG LEE & CO.

VICTORIA, B.C., 29th August, 1878.

Petition of Canners of Salmon to Governor General.

To His Excellency the Earl of Dufferin, K.P., K.C.B., Governor General of Canada :

The Memorial of the undersigned proprietors of establishments for the canning of salmon on the Fraser River in the vicinity of New Westminster, B.C.,

HUMBLY SHEWETH :

That your Memorialists respectfully request that Your Excellency will be pleased to disallow " The Chinese Tax Act, 1878," recently passed by the Legislative Assembly of Brisish Columbia, for the following reasons :—

1. We believe the said Act to be at variance with the British Constitution, in this, that it imposes a tax upon persons simply on account of nationality; that it conflicts with existing Treaties, made by the Imperial Government, and that in many instances it would tax persons who are British subjects, simply because they are Chinese.

2. We believe that it is impolitic, in that it will destroy many industries, which are now being established, and are yet in their infancy, among them is the canning of salmon. Chinese labor is, at present, the only labor available for the prosecution of this business. The short period of time during which the fish run (frequently but one month out of the year) prevents other classes of laborers from seeking employment in the canneries, except in the procuring of fish which is entirely done by white men and Indians. Frequently the whole amount of money earned in a season by a Chinaman is less than the annual tax demanded by this Act. Should the Act be enforced it will virtually compel all the canneries on the Fraser River to close, and absolutely ruin those who have invested their capital in the business.

3. We respectfully submit that this Act is opposed to natural justice and common sense, in demanding, as it does, from the employer a penalty for the fault committed by the employé, thus introducing a new and vicious principle into English Law, whereby an innocent man, against his will, is made answerable for the fault of a wrong-doer.

4. The number of Chinese who are now in this Colony is not so great as to interfere with white men, or to crowd them out of employment. On the contrary, the fact that Chinamen can be obtained for canneries, gives room for over fifteen hundred whites and Indians, who are engaged in fishing, and who would be at once thrown out of employment if the canneries should be forced to close.

5. The popular cry against Chinese proceeds from a class who have nothing at stake in the country, and we believe is not in accordance with the opinions of the most intelligent and better class of our population.

Your Memorialists, therefore, pray that for these various reasons Your Excellency will be graciously pleased to withhold Your Excellency's assent from and disallow the said Act, and your Memorialists as in duty bound will ever pray.

A. HOLBROOK, *Chairman*,
KING & CO.,
LANE, PIKE & NELSON,
DELTA CANNING CO.,
FINDLAY, DURHAM & BRODIE,
ENGLISH & CO.,
EWEN & WISE,
BRITISH COLUMBIA PACKING CO.,
R. J. FINLAYSON, JUN.

6th September, 1878.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 3rd September, 1878.

SIR,—I have the honor to enclose you herewith, for the information of His Excellency the Governor General of Canada, a copy of "An Act to provide for the better Collection of Provincial Taxes from Chinese," to which I, yesterday, assented in Her Majesty's name.

I beg to inform you that I shall forward, in due course, copies of all Acts passed at the late Session, with the usual Report, and only forward the enclosed copy in advance, as the question involved in it is one of importance.

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

HON. R. W. SCOTT,
Secretary of State.

By Telegraph from Victoria, B.C., to Hon. R. W. Scott.

VICTORIA, B.C., 18th September, 1878.

Government enforcing Chinese Tax Bill. Petitioners pray early consideration of Petition. Many signers already made.

A. R. ROBERTSON.

Sir M. E. Hicks-Beach to the Marquis of Lorne.

DOWNING STREET, 29th November, 1878.

MY LORD,—I have the honor to transmit to you the accompanying copy of a letter from the Foreign Office, with an enclosure from the Chinese Minister at this Court, respecting a Bill recently passed by the Legislature of British Columbia, subjecting Chinese merchants and laborers, resident in that part of the Dominion, to a poll tax of $40 per annum.

I shall be glad if Your Lordship will furnish me at your early convenience with a Report upon the steps which have been taken in connection with this Bill, which has not been received at this Department.

The complaint of the Chinese residents appears to have been already brought under the notice of the Dominion Government, and a telegraphic notice appeared in the London papers to the effect that the Supreme Court of the Province had declared the Act illegal. I shall be glad to be furnished with any information at your command upon the latter statement.

I have, &c.,

M. E. HICKS-BEACH.

Governor General

The Right Hon. the Marquis of Lorne.

The Foreign Office to the Colonial Office.

FOREIGN OFFICE, 18th November, 1878.

SIR,—I am directed by the Marquis of Salisbury to transmit to you to be laid before Her Majesty's Secretary of State for the Colonies, the accompanying copy of a letter from the Chinese Minister at this Court, representing that by a Bill recently passed by the Legislature of British Columbia, Chinese merchants and others resident in that Colony, are subjected to a poll tax of $40 per annum, from which they petition to be relieved, and I am to request that in laying this letter before Sir M. E. Hicks-Beach you will move him to inform Lord Salisbury what reply should be given to Kno Ta Jeu's representation.

I am, &c.,

T. V. LISTER.

The Under Secretary of State, Colonial Office.

The Chinese Minister to the Marquis of Salisbury.

CHINESE LEGATION, 2nd November, 1878.

MY LORD MARQUIS,—I have the honor to inform Your Lordship that I have just received a joint petition from the merchants and laborers of the Chinese firms Kwang

li Tai, Yuan Lung, Sciang Tai Suou Chung, Tai-chang Yuan and Sin Yee, of Victoria, British Columbia. The statement and the petition is as follows:—

"We, the merchants and laborers, are the natives of China. We have been for many years in Victoria, in the British Dominion of Canada, North America, either as merchants importing and selling goods, or as laborers undertaking manual works. In the spring of this year we heard that the new Legislature would pass a Bill levying an oppressive tax on the Chinese, but thought it was a rumor, and could by no means become a fact; as the English people in China are not taxed in any way, there is no reason why the Chinese people in the British Dominion should be taxed. It was in the sixth month of this year that the rumor became true, and a Bill was passed that every man was to be taxed $40 a year; but the Governor of Victoria has not yet signed it; therefore, we went in haste to see the authorities of Victoria, and requested them not to sign the Bill. The authorities informed us that this was a matter to be decided on by the Governor General of Canada. If no instructions stopping the passing of the Bill were received, the Victoria authorities could not do otherwise than to sign it. We immediately laid the matter before the Governor General of Canada by a telegram, and received from His Excellency a reply stating that His Excellency could not decide until examination had been instituted after the receipt of petitions. We at once engaged a lawyer named Si Pa Chin to draw up a petition, which was sent to Canada on the fourth of the eighth month, but up to this time no reply has yet been received.

On the 11th day official messengers who came to urge the payment of siiay yiu were brought to us—the English words for siiay-yiu are tax silver. The official messengers holding tax papers in their hand, declared that they received instructions from the high functionaries to collect taxes for the Government, that every man should every year pay a tax of forty dollars, which were to be paid quarterly, and that if no tax were paid in accordance with the regulations, the official messengers would come in the course of next week to remove their goods and confiscate the same. The same statement found expression in the newspapers here. At the time we endeavored to put off the payment of the tax, but among the laborers the employers of some have already deducted the taxes of the employed to pay the said tax. If such usuage prevails the merchants who make but very slight profit cannot bear the burden of taxation. Indeed, it is very much more unbearable for the poor laborers to be thus taxed; moreover, there are people who are without any employment, for them it is extremely difficult even to get their daily bread. If such persons were equally taxed their position would be intolerable to an extreme degree.

The popular feelings are so excited that serious disturbance is to be apprehended. Considering that it is of very great consequence to the general order of things we lay before Your Excellency our causes of complaints, and beg Your Excellency to protect and secure our interests. We do not aim at any extra favorable treatment from the British Government. What we hope for is that we may be so fortunate as to receive the same kind of treatment as the people of other nations do.

While drawing up this despatch I received from His Excellency Chin, His Imperial Majesty's Minister to the United States of America, Spain and Peru, a letter acquainting me that the said merchants and laborers sent a similar petition to him, and requesting me to communicate with the British Government, and to request them to exempt the said merchants and others from the above mentioned taxation.

I beg to remark that in the British Colonies the people of different countries are always treated without any partiality whatever. In the case of the merchants of the Chinese firms, Kranz Li Tai, Juan Lwig and others, if there had been found in them anything unsuitable to the colony, the course of proceeding should have been to discuss the merits and demerits of the matter of fact; it is certainly an extremely inexpedient measure to impose such a burdensome tax on every one of them. I am of opinion that the Lieutenant-Governor of British Columbia cannot fail, in consulting with the Secretary of State for the Colonies, to adopt measures prohibitory of such taxation, in accordance with the existing general regulations. I beg to request the Secretary of State for Colonies, through Your Lordship, to cause instructions to

be sent to the Lieutenant-Governor of British Columbia directing him to reconsider the case, and order the exemption of the above mentioned tax so as to secure the safety of the interests of the people concerned.

I have, &c.,

KNO-LUNG-TOO.

The Most Noble
the Marquis of Salisbury, K.G.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 15th August, 1879.

I have the honor to report upon certain Acts passed by the Legislature of the Province of British Columbia in the year 1878 (42 Vic.) and assented to in the month of September of that year.

Cap. 19.—"An Act to amend the 'Constitution Act, 1871,' by creating a new Electoral District and providing for a redistribution of seats in the Districts of Nanaimo, Cowichan and Kootenay."

This Act should be left to its operation.

Cap. 20.—"An Act to make further provision for the Administration of Justice."

This Act has already been, by Order in Council, left to its operation.

Cap. 21.—"An Act to enable the Lieutenant-Governor in Council to establish a tariff of costs in the Supreme and County Courts."

This Act is doubtless within the Legislative powers of the Provincial Legislature, and as it does not interfere with Imperial or Dominion interests, the power of disallowance should not be exercised with respect to it. The wisdom and expediency of its provisions are, however, open to serious question.

Cap. 22.—"An Act to amend the Qualification and Registration of Voters' Act, 1876."

This Act is within the Legislative authority of the Provincial Legislature, and should be left to its operation.

The very stringent provisions of the fourth Section against certain persons directly or indirectly influencing voters at Provincial Elections will, I fear, prove to be very difficult to enforce.

Cap. 23.—"An Act relating to the protection of Game."

Cap. 24.—"An Act to amend the 'Highways Nuisances Removal Act, 1878.'"

These two Acts should be left to their operation.

Cap. 25.—"An Act relating to the Crown Lands in British Columbia."

The provisions of this Statute are of a startling nature. The first Section casts upon persons who had purchased Crown lands before the Act was passed, and upon persons who held leases or ferry charters, a liability never contemplated by them when the purchases or leases were made. The section declares that from and after the passing of the Act, all moneys due in respect of such purchases, leases or charters shall bear interest at twenty-four per cent. per annum until paid.

The second Section empowers the Chief Commissioner of Lands and Works, without further notice to the purchaser of Crown lands than a mere notice in the British Columbia *Gazette*, to cancel "all or any records or agreements concerning such lands, and in such case the right of such person therein or thereto, and all money paid by him thereon shall be absolutely forfeited, and he shall have no further right at law or in equity to the land so partially paid for."

If the whole subject matter of this Act were within the exclusive Legislative control of the British Columbia Legislature, I would feel some difficulty in recommending that the Act be disallowed, merely because its provisions did not accord with my views of justice.

I recognize fully the importance of allowing the Local Legislature to be the Judges of the wisdom and expediency of any Act falling within their exclusive Legislative authority.

This Act, however, seems to me to attempt to deal with a subject assigned by the British North America Act exclusively to the Parliament of Canada, viz.:—The subject of Interest. The case of Ross *v.* Torrance. The City of Montreal, claimants, reported in Vol. 2 of the Montreal "Legal News," page 186, decides that a Statute of the Quebec Legislature (41 Vic., Cap. 27), which assumes to authorize the Corporation of Montreal, by By-law, to re-act an increase addition or penalty of ten per cent. on all arrears of assessments not paid within a certain day, is unconstitutional and void, as being beyond the powers of a Provincial Legislature. The Court held that the attempt to authorize the re-action of an "increase addition or penalty" was an interference with the subject of interest. The case referred to is a clear authority against the constitutionality of the Act now under consideration, and in view of the fact that the Government of the Province are not in the same position as a private individual would be under similar circumstances, and that the purchaser of Crown lands, or the holder of a lease or ferry charter, could not readily test the validity of the Act in the Courts as he could do were his opponent a subject whom he could bring into Court in an ordinary action; in view, also, of the nature of the Act itself. I have less hesitation in recommending its disallowance, I recommend, therefore, that the said Act, being Chapter 25 of the Statutes of British Columbia, passed in the forty-second year of Her Majesty's reign, A.D. 1878, and intituled: "An Act relating to the Crown Lands in British Columbia," be disallowed.

Cap. 26.—"An Act relating to certain Ordinances and Acts."

Cap. 27.—"An Act to amend the law respecting retail Liquor Licenses."

Cap. 28.—"An Act relating to the British Columbia Loan Acts, 1874 and 1876."

Cap. 29.—"An Act to amend the Mineral Act, 1878."

Cap. 30.—"An Act to provide for employing Prisoners without the walls of Common Gaols."

Cap. 31.—"An Act to amend the law relating to the Legal Profession."

Cap. 32.—"An Act to amend the School Tax Act, 1876."

Cap. 33.—An Act for granting certain sums of money required for defraying the expenses of Civil Government for the half year ending 31st December, 1878, and for other purposes."

Cap. 34.—"An Act for granting certain further sums of money required for defraying expenses of the Civil Government for the half year ending 31st December, 1878, and for other purposes."

The above Acts should be left to their operation.

Cap. 35.—"An Act to provide for the better collection of Provincial Taxes from Chinese."

This Act has been held by the Supreme Court of British Columbia to be unconstitutional and void. The Judgment has not been appealed from, and must be taken to be the law. As it is clearly the duty of this Government not to allow an Act of this nature, which has been declared by the Court to be *ultra vires*, to remain on the Statute Book, I think it should be formally disallowed. I recommend therefore that the Act of the Province of British Columbia, passed in the forty-second year of Her Majesty's reign, A.D. 1878, Cap. 35, and intituled: "An Act for the better collection of Provincial Taxes from Chinese," be disallowed.

Cap. 36.—"An Act to amend the Assessment Act, 1876."

This Act contains many detail provisions which no doubt will be found useful in connection with the collection of taxes, some of its provisions are very stringent and may work hardships, but so long as they are within the Legislative authority of the Province, their nature is not such as to call for an exercise of the power of disallowance. There are, however, certain provisions in the Act which call for remark, as being *ultra vires* of the Provincial Legislature. The 10th Section enacts that when taxes are delinquent (*i.e.* unpaid for a certain specified time), twenty-five per cent. thereof shall be charged thereon and added thereto, and shall form part of such delin-

quent tax, and interest shall at once attach thereon after the rate of 18 per cent. per annum. Provisions then follow for the collection of the amount by sale of the land, &c. According to the decision in the case of Ross *v.* Torrance above referred to the attempt to add the 25 per cent. and the 18 per cent. interest to be unpaid taxes, is void. Were the Statute now under consideration of a nature similar to the "Act relating to the Crown Lands in British Columbia," which has been recommended to be disallowed, I would feel called upon to make the same recommendation with respect to it. The objection to this Act, however, from a constitutional po nt of view, relates to the provisions which affect the amount merely of the tax, the other provisions, though in some respects stringent, are within the powers of the Provincial Legislature, and it must be presumed that they have been found necessary in the public interests, and they are not of such a nature as to call for interference therewith by the Dominion Government.

Any person desiring to test the legality of the claim for the 25 per cent. addition and the 18 per cent. interest will have a convenient way of doing so by proceeding against the collector to restrain a seizure or sale, by testing the validity of the sale with the purchaser. In this respect the Act differs materially from the one which has been recommended for disallowance. Under all the circumstances, I think the better course will be to leave the Act to its operation. at the same time calling the attention of the British Columbia Government to the above remarks, and to the case of Ross *v.* Torrance above referred to, in order that they may consider the advisability of the public interests of amending the Act next Session in such a manner as will remove the constitutional objections thereto, and at the same time prevent the litigation and feeling of insecurity with respect to tax titles, which will undoubtedly arise if the Act be attempted to be enforced in its present shape. I recommend therefore that this course be followed.

Cap. 37.—"An Act to amend the Cariboo Waggon Road Tolls Act, 1876."

This Act will be reported on at a future time.

Cap. 38.—"An Act to amend an Act to afford Owners and Occupiers of land a summary remedy in certain cases of Trespass."

This Act is unobjectionable, and should be left to its operation.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council of Canada, approved by His Excellency the Governor General on the 28th day of October*, 1879.

On a Report, hereunto annexed, dated 15th August, 1879, from the Honorable the Minister of Justice upon certain Acts passed by the Legislature of the Province of British Columbia, in the year 1878 (42 Vic.), and assented to in the month of September in that year;

The Committee concur in the said Report, and accordingly recommend that the Act Cap. 25, intituled: "An Act relating to the Crown Lands in British Columbia," and the Act Cap. 35, intituled: "An Act to provide for the better collection of Provincial Taxes from Chinese," be disallowed; that the other Acts reported on be left to their operation, and that the attention of the Government of British Columbia be called to the remarks and to the case submitted in said Report.

J. O. COTÉ,
Assistant Clerk.

Proclamation disallowing the Act Chapter 25, *above-mentioned.*

Government House, Ottawa, Friday, 22nd day of August, 1879.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 2nd day of September, 1878, pass an Act, Cap. 25, intituled: "An Act relating to the Crown Lands in British Columbia;"

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature of the Province of British Columbia to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia, the 2nd day of September, 1878, Cap. 25, intituled: "An Act relating to the Crown Lands in British Columbia," was received by me on the 5th day of October, 1878.

Given under my hand and seal this twenty-second day of August, 1879.

LORNE.

Proclamation disallowing the Act Chapter 35, *above-mentioned.*

Government House, Ottawa, Friday, 23rd day of August, 1879.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 2nd day of September, 1878, pass an Act, Cap. 35, intituled: "An Act to provide for the better collection of Provincial Taxes from Chinese;"

And whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice setting forth that he is of opinion that it was not competent for the Legislature of the Province of British Columbia to pass such Act, and, therefore, recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General, has, thereupon, this day, been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of British Columbia, the 2nd day of September, 1878, Cap. 35, intituled: "An Act to provide for the better collection of Provincial Taxes from Chinese," was received by me on the 17th day of September, 1878.

Given under my hand and seal this 22nd day of August, 1879.

LORNE.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 20th September, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch, of the 1st instant, enclosing, for the information of my Government, copies of two Orders in Council dated 22nd ultimo, the one disallowing an Act of the Legislature of this Province passed on the 2nd day of September, 1878, Cap. 35, intituled: "An Act to provide for the better collection of Provincial taxes from Chinese, and the other disallowing an Act, Cap. 25, passed on the same day, intituled: "An Act relating to the Crown Lands in British Columbia."

I have, &c.,

A. N. RICHARDS,
Lieutenant-Governor.

Hon. J. C. AIKINS,
Secretary of State for Canada.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th September, 1879.

I have now the honor to report upon the Act passed by the Legislature of British Columbia in the year 1878, intituled:

"An Act to amend the 'Cariboo Waggon Road Tolls Act, 1876.'"

The Act is as follows:

"Section 2 of the "Cariboo Waggon Road Tolls Act, 1876," shall be and the same is hereby repealed, and in lieu thereof the following shall be substituted:—

"There shall be levied and paid from and after the passing of this Act unto and to the use of Her Majesty, her heirs and successors, from all persons whomsoever by way of toll the sums following, that is to say:—

"For every pound avoirdupois of goods, merchandize, stores, productions and chattels, other than those hereinafter excepted, which shall respectively be carried from Yale in the direction of Cariboo, the sum of one cent.

"2. Provided that all plant and material used in the construction of the Canadian Pacific Railway shall be exempted from such toll under and subject to such regulations as the Lieutenant-Governor in Council may prescribe.

"3. This Act may be cited as the 'Cariboo Waggon Road Tolls Amendment Act, 1878.'"

Section 2 of the Cariboo Waggon Road Tolls Act, 1876, repealed by the Act now under consideration is as follows:—

"There shall be levied and paid from and after the fifteenth day of May, next, unto and to the use of Her Majesty, her heirs and successors, from all persons whomsoever by way of toll, the sums following, that is to say:—

"For every pound, avoirdupois, of goods, merchandize, stores, productions and chattels, other than those hereinafter excepted, which shall respectively be carried over or across the Alexandria Suspension Bridge, or over or across the Fraser River, within a distance of ten miles above and ten miles below the said bridge, the sum of half a cent."

"For every pound, avoirdupois, of goods, merchandize, stores, productions and chattels, other than those hereinafter excepted, which shall respectively be carried from Clinton, in the direction of Cariboo, the sum of half a cent."

And Section 3 of that Act, which has not been repealed, is as follows:—

"Provided that no tolls shall be demanded of, or from, or paid by any person in respect of mining machinery, farming implements, wheat, beans, peas, barley and grain of all kinds, hay, roots, vegetables and other agricultural produce, the growth of the Province, and all flour and meal manufactured in this Province from wheat, beans, peas, oats, barley and grain of all kinds grown in the Province, and all cattle and all articles and things coming in the direction of the seaboard from the interior of the Province, whether intended for export or home consumption, for the purposes of manufacture in the Province, or any other purpose whatsoever."

The Minister of Justice, Mr. Blake, in reporting upon the Act passed in 1876, after referring to its provisions and to the provisions of the Act repealed by it, makes use of the following language:—

"It is obvious, therefore, that the Act now under consideration is in furtherance of a policy which has been pursued in British Columbia for several years,—but the undersigned feels it his duty to call the attention of Council to this Legislation, which, in effect, places upon the consumers of imported goods the chief burden of maintaining the public roads which are established as well for the transport of articles of home productions."

"The undersigned does not recommend the disallowance of this Act, but he must point out that its principle might be so extended as to render it necessary to consider the question whether such Legislation does not trench on the regulation of trade and commerce."

It will be observed that the section repealed imposes a tax upon such goods only as were carried over or across the Alexandria Suspension Bridge, or over or across the Fraser River within a certain distance of that bridge, or which are carried from Clinton in the direction of Cariboo, the toll being but one-half cent per pound; whereas, the Act now under consideration imposes a toll of one cent per pound upon goods carried from Yale in the direction of Cariboo.

I have the honor to submit that the question raised by the Minister of Justice in his Report upon the Act, 1876, namely: Whether this Act does not trench on the regulation of trade and commerce to an injurious degree, should now be considered by Council.

Should Council determine that the Act should not be disallowed by reason of being an interference with the regulation of trade and commerce, another serious question with reference thereto should be considered.

It will be observed that the Act exempts only the plant and material used in the construction of the Canadian Pacific Railway, under and subject to such regulations as the Lieutenant-Governor in Council may prescribe.

Contractors' supplies, &c., are not exempt.

When this Bill was first introduced it did not contain the exemption clause now in it, and on the 9th August, 1878, Mr. John Robson, Paymaster and Surveyor of

Canadian Pacific Railway Survey, addressed to the Hon. G. A. Walkem, Attorney-General of British Columbia, the following communication :—

"CANADIAN PACIFIC RAILWAY SURVEY, WESTERN DIVISION,
"VICTORIA, B.C., 9th August, 1878.

"DEAR SIR,—In looking over the 'Cariboo Waggon Road Tolls Amendment Act, 1878' (which I saw for the first time to-day), and construing it with the principal Act, it appears to me that its provisions are likely seriously to affect the railway interests of the country.

"According to the railway policy of the Dominion Government, the work of construction will be commenced at Yale next summer, and continued upwards, thence through the canyons of the Fraser. It appears to me, railway materials and supplies, machinery and appliances essential to railway construction, passing out of Yale to any point beyond the toll-gate, would be liable to the toll imposed by the above-recited Act.

"When it is mentioned that work—and the heaviest part of the work—is intended to be commenced almost immediately, beyond the toll-gate, it must be seen at once that such an impost, meeting railway construction at the very threshold, cannot fail seriously to operate against it,—if, indeed, it would not render such works practically impossible.

"Respectfully submitting the matter to your consideration, I beg to request that, should the assumption that the toll in question would apply to railway material, &c., be correct, you will be good enough to have a provision inserted in Act exempting such railway material, &c.

"I have, &c.,
"JOHN ROBSON,
"*Paymaster and Purveyor, C.P.R.S.*"

To which the following reply was received :—

11th August, 1878.

"In reply to your letter of the 9th inst., recommending the inconvenience of applying the Road Tolls Act to railway plant, or material passing the Yale toll gate, I have to assure you that whenever construction is commenced, the Government will afford every facility for its being carried on expeditiously, and so far as they are concerned, as cheaply as possible, arrangements just to the Dominion and Province, can then be made."

On the 13th August, Mr. Robson addressed to Mr. Walkem the following :—

"I have the honor to acknowledge the receipt of your letter of Sunday last, replying to mine of the 9th inst., and I regret that its contents do not appear to be altogether satisfactory.

"It is known to be the intention of the Dominion Government to place a section of that portion of the Canadian Pacific Railway lying within British Columbia, under contract as soon as possible after the Parliament meets next February, and, with that view, it is proposed to seek tenders for the same before the present year is out. Should the Act under discussion become law meanwhile, it is obvious that it must exert a most serious influence upon the tenders, inasmuch as intending contractors would undoubtedly make allowance for the toll in question, in estimating the value of the work; and it seems scarcely necessary that a toll of one cent a pound on all the railway plant and supplies necessary for such heavy works as are contempleted, must amount to something enormous; nor does it seem to be just, seeing only a very short portion indeed of the road in respect of which it is proposed to levy the toll, will be used it transporting such material.

"I beg, therefore, most respectfully to submit that however willing your Government might be to meet the Dominion Government in a fair and liberal spirit, 'whenever construction is commenced,' the remedy would come too late, as the

tenders would have been sent in and the contract awarded at the greatly increased price, or what is far more likely to happen, the tenders would be rejected on account of undue appreciation in prices thus occasioned, and instead of the Province 'making a haul,' out of the Dominion, its interests and revenues would suffer on account of consequent delay in railway construction."

"I would, therefore, respectfully but most earnestly repeat the suggestion that a provision be yet inserted in the Act referred to, exempting materials and supplies used in railway construction.

"I have, &c.,

"JNO. ROBSON,

"*Paymaster and Purveyor, C.P.R.S.*"

On the 17th August copies of the correspondence with Mr. Walkem was sent by Mr. Robson to the Department of Public Works, and, on the 4th September, Mr. Robson wrote to the Department of Public Works, as follows :—

"Adverting to my letter of the 17th ult., referring to a Bill passed through the Provincial Legislature, and enclosing correspondence between the Hon. Mr. Walkem and myself there-enent, I have further to report that the point contended for, was subsequently conceded, and the Bill sent back to the House for insertion of exemption clause."

"I now beg to point out what appears to me objectionable features of the amended Bill, a copy of which is enclosed herewith."

"I. The exemption is only partial, not including supplies employed and consumed in railway construction, a toll of twenty dollars a ton on which seems not only enormous but unjust, when it is considered that railway works to the value of several millions will have to be constructed almost within the shadow of the toll gate. It seems impossible to doubt that such an impost will exert a serious influence upon the tenders for the work."

"II. It will be observed that the modicum of relief given in the Act is made contingent on a revocable Order in Council—rather insecure ground it is to be apprehended, for contractors to go upon in tendering for the work."

"There seems reason to fear that the measure under consideration is calculated to operate very prejudicially as against railway construction in the particular locality referred to, by causing the tenders now invited to be much higher than they would otherwise be, and it may, therefore, be matter for consideration whether the Dominion Government would not be justified in disallowing the Act in question."

And on the, 8th October, 1878, Mr. Robson wrote as follows :—

"I have the honor to acknowledge your letter of the 28th ult., and to report thereon as follows :—

"The fact that the words 'and supplies' had been erased from the exemption clause when it came before the Legislature, taken in connection with the further fact that the point was fully discussed in the House, and a decision arrived at, not to exempt supplies," affords the most conclusive evidence that the words used in the Act referred to are not intended to cover supplies of all descriptions.

"A reference to files of the Victoria newspapers will sufficiently establish the above mentioned facts."

In my opinion supplies or articles of food, &c., for the use of those engaged in the construction of the Canadian Pacific Railway, do not come within the exemption clause of the Act.

I have the honor to recommend that for the two reasons above referred to, viz.:—

(1.) The interference with the regulation of trade and commerce, and,

(2.) The possible imposition of unfair charges upon the Dominion Exchequer, the said Act passed by the Legislature of British Columbia, and intituled: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876," be disallowed.

JAS. McDONALD,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 2nd October*, 1879.

On a recommendation of the Honorable the Minister of Justice, and for the reasons set forth in his Report, dated 24th September, 1879, the Committee advise that the Act passed by the Legislature of the Province of British Columbia, in the year 1878, intituled: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876, be disallowed, and that a copy of this Minute, when approved, and of the Reports of the Minister of Justice, above alluded to, be transmitted to the Lieutenant-Governor of British Columbia.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation disallowing the Act Chapter 37, *above-mentioned.*

GOVERNMENT HOUSE, OTTAWA, Thursday, 2nd day of October, 1879.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 2nd day of September, 1878, pass an Act which has been transmitted, chaptered 37, intituled as follows, viz.: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876;"

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature of the Province of British Columbia to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor General;

His Excellency the Governor General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice, and govern themselves accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of British Columbia, the 2nd day of September, 1878, intituled: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876," was received by me on the 5th day of October, A.D. 1878.

Given under my hand and seal this second day of October, 1879.

LORNE.

Under Secretary of State to Lieutenant-Governor of British Columbia.

DEPARTMENT OF SECRETARY OF STATE, OTTAWA, 8th October, 1879.

SIR,—I am directed to transmit to you herewith, for the information of your Government, copy of an Order in Council, dated 2nd instant, disallowing an Act of

the Legislature of British Columbia, passed on 2nd September, 1878, intituled: "An Act to amend the Cariboo Road Tolls Act, 1876," and also to transmit to you copy of a second Order in Council, dated 2nd instant, on the subject above alluded to, and of the Report of the Minister of Justice referred to in the latter Order in Council.

I have, &c.,

EDOUARD J. LANGEVIN,

Under Secretary of State.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 18th October, 1879.

SIR,—I have the honor to acknowledge the receipt of a Despatch from the Under Secretary of State for Canada of the 8th instant, transmitting, for the information of my Government, copy of an Order of His Excellency the Governor General in Council, dated 2nd instant, disallowing an Act passed by the Legislative Assembly of this Province, on the 2nd September, 1878, intituled: "An Act to amend the Cariboo Waggon Road Tolls Act, 1870;" as well as a second Order in Council on the same subject, and a Report of the Minister of Justice, referred to in the latter Order in Council.

I have further the honor to inform you that I have caused a copy of the Despatch and enclosures to be laid before my Ministers.

I have, &c.,

A. N. RICHARDS,

Lieutenant-Governor.

Hon. the Secretary of State,
Ottawa.

Secretary of State to Lieutenant-Governor of British Columbia.

OTTAWA, 5th November, 1879.

SIR,—I have the honor to transmit to you, herewith, for the information of your Government, a copy of an Order in Council, dated 28th instant, together with a copy of the Report of the Honorable the Minister of Justice, therein referred to, upon certain Acts passed by the Legislature of the Province of British Columbia in the year 1878 (42 Vic.), and assented to in the month of September in that year, disallowing two of the Acts therein specified, the other Acts reported on being left to their operation, and to call the attention of your Government to the remarks and to the case submitted in said Report.

I have, &c.,

J. C. AIKINS,

Secretary of State.

His Honor
The Lieutenant-Governor of British Columbia.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 29th November, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch of the 5th instant, enclosing a copy of an Order in Council dated 28th ultimo, together with

a Report of the Honorable the Minister of Justice, therein referred to, upon certain Acts passed by the Legislature of this Province, and assented to in September, 1878, disallowing two of the Acts therein specified, the other Acts reported on being left to their operation, and calling the attention of my Government to the remarks, and to the case submitted in said Report.

I have further the honor to inform you that I have caused a copy of the said Despatch and enclosures to be referred to my Executive Council for their consideration.

I have &c.,

A. N. RICHARDS,

Lieutenant-Governor.

The Hon. the Secretary of State,
Ottawa.

BRITISH COLUMBIA, 42ND VICTORIA, 1879.

2ND SESSION—3RD PARLIAMENT.

Lieutenant-Governor of British Columbia to Secretary of State.

GOVERNMENT HOUSE, VICTORIA, B.C., 17th June, 1879.

SIR,—I have the honor to enclose you herewith, for the information of His Excellency the Governor General of Canada, a certified copy of all the Acts passed at the last Session of the Legislative Assembly of this Province, and to which I assented in Her Majesty's name.

I beg also to enclose a Report from the Attorney-General of this Province, addressed to myself, on all the Chapters of the said Acts except the "Judicature Act, Cap. 12."

I have, &c.,

A. N. RICHARDS,

Lieutenant-Governor.

The Honorable
The Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th May, 1880.

I have the honor to report upon the Statutes passed by the Legislature of British Columbia in the year 1879, received by the Hon. the Secretary of State on the 2nd day of July, 1879, as follows:—

Cap. 1.—"An Act to further amend the Bills of Sale Ordinance, 1870."

This Act requires no special observation; I recommend that it be left to its operation.

Cap. 2.—"An Act to enable the Lieutenant-Governor in Council to grant Charters for the erection of Toll Bridges.

It appears from a communication sent to the Hon. the Minister of the Interior, from certain inhabitants of Victoria, B.C., that certain persons had applied to the Lieutenant-Governor in Council for a Charter giving them authority to build a bridge over a part of the Victoria Harbor, and a strong protest was made against the building of any such bridge.

The Premier of British Columbia, the Hon. G. A. Walkem, while here in February last, informed me that His Government had done nothing towards granting the application, and that as the waters of the harbor where the bridge was proposed to be built were navigable, he did not claim for his Government the power to authorize the erection of the bridge.

It will be observed that the Act is expressly confined to such bridges as are under the control of the Legislature of British Columbia. The Statute does not even assume to empower the Provincial Government to authorize the construction of a bridge which might interfere with navigation, and it is quite clear that express words in the Statute assuming to give such authority would be of no effect, as any person attempting to obstruct by a bridge or otherwise, without the authority of the Parliament of Canada, the navigation of any river, harbor, bay, arm of the sea, or other navigable water, could be prevented by injunction from causing the obstruction, and in certain events the obstruction if created, might, as any other nuisance, be abated by the public without process of law.

I recommend that the Act be left to its operation.

Cap. 3.—"An Act to protect Winter Stock Ranges."

This Act will be reported upon on a future occasion.

Cap. 4.—"An Act to repeal the Cemetery Ordinance, 1870."

Cap. 5.—"The Cemetery Act, 1879."

Cap. 6.—"An Act to provide for the management of certain Cemeteries in the Province of British Columbia.

Cap. 7.—"An Act for the protection and relief of the Nanaimo Fire Brigade."

Cap. 8.—"An Act to amend the Constitution Amendment Act, 1878."

I recommend that these Acts be left to their operation.

Cap. 9.—An Act respecting Coroners."

I recommend that this Act be left to its operation as Acts of a similar nature in other Provinces have not been interfered with.

I desire to point out, however, that the right of a Provincial Legislature to legislate respecting Coroners has, in certain respects, been questioned as entrenching upon the subject of Criminal Law and Criminal Procedure.

Cap. 10.—"An Act respecting the costs of Arbitrators."

Cap. 11.—"An Act respecting the costs of Levying Distresses for Rents and Penalties."

I recommend that these Acts be left to their operation.

Cap. 12 and Cap. 13.—(These Acts have been reported upon separately.)

Cap. 14.—"An Act to amend the 'Sumass Dyking Act, 1878.'"

I recommend that this Act be left to its operation.

Cap. 15.—"An Act respecting the Sumass Dyking Act, 1878."

This Act will be reported upon hereafter.

Cap. 16.—"An Act respecting the Fees of Sheriffs, Justices of the Peace, and Constables, and for other purposes."

Cap. 17.—"An Act to amend the 'Fence Ordinance, 1869.'"

Cap. 18.—"An Act to amend the 'British Columbia Line Fences and Watercourses Act, 1876.'"

Cap. 19.—"An Act to provide for the proper management of Gaols."

Cap. 20.—"An Act respecting the Graving Dock at Esquimalt."

Cap. 21.—"An Act to amend the 'Land Act, 1874.'"

Cap. 22.—"An Act to amend Section 4 of the 'Land Registry Ordinance, 1870.'"

I recommend that these Acts be left to their operation.

Cap. 23.—"An Act to amend the 'Licenses Ordinance, 1867.'"

This Act will be reported upon at another time.

Cap. 24.—"An Act to establish Liens in favor of Mechanics and others."

Cap. 25.—"An Act to cancel certain Debentures issued under the authority of the British Columbia Loan Acts, 1874 and 1876, and to repeal the 'British Columbia Loan Act, 1876.'"

Cap. 26.—"An Act respecting the Magistracy."

Cap. 27.—"An Act to authorize the Lieutenant-Governor to execute Marriage Licenses, and for other purposes relating to Marriages."

Cap. 28.—"An Act to amend the 'Municipality Act, 1872.'"

Cap. 29.—"An Act respecting the Civil Service, the collection and management of the Revenue, and the duties and liability of the Auditor and Accountants."

I recommend that these Acts be left to their operation.

Cap. 30.—"The Public School Act, 1879."

Section 25 of this Act is clearly beyond the power of the Legislature to pass, as it expressly assumes to make a person wilfully making a false declaration of his right to vote at the Election of the School Trustees guilty of a misdemeanor.

The provisions of the section were evidently overlooked when passing through the House.

I recommend that the attention of the Lieutenant-Governor be called thereto, with a request that his Government will in due time promote the repeal of the section.

Meantime, I recommend that the Act be left to its operation.

Cap. 31.—"An Act respecting Law Stamps."

Cap. 32.—"An Act respecting the Printing and Distributing of the Statutes, Journals, and Sessional Papers, of the Legislative Assembly."

Cap. 33.—"An Act for granting certain sums of Money required for defraying the Expenses of Civil Government for the eighteen months ending 30th June, 1880, and for other purposes."

Cap. 34.—"An Act to amend the 'Assessment Act, 1876, and the Assessment Amendment Act, 1877.'"

Cap. 35.—"An Act to amend Sections 9 and 13 of the Assessment Amendment Act, 1878, and Section 1 of the School Tax Act Amendment Act, 1878."

Cap. 36.—"An Act to repeal Section 6 of the 'School Tax Act, 1876.'"

Cap. 37.—"An Act respecting the collection of School Tax and Mining Licenses."

I recommend that these several Acts be left to their operation.

JAMES McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 15th May*, 1880.

On a Report, dated 8th May, 1880, from the Hon. the Minister of Justice, upon the Statutes passed by the Legislature of the Province of British Columbia in the year 1879, received by the Hon. the Secretary of State on the 2nd day of July, 1879,

The Committee advise that the Statutes mentioned in said Report be left to their operation, as therein recommended.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th May, 1880.

I have the honor to report upon two Acts passed by the Legislature of the Province of British Columbia, in the year 1879, received by the Hon. the Secretary of State, on the 2nd day of July, 1879, as follows:—

Cap. 12.—"An Act to amend the Practice and Procedure of the Supreme Court of British Columbia, and for other purposes relating to the better Administration of Justice."

A very strong protest against this Act, by reason of the provisions of the 17th Section, has been received from the three Judges of the Supreme Court at British Columbia.

The 17th Section empowers the Lieutenant-Governor, by Order in Council, to make rules to be styled "Rules of Court," for carrying the Act into force, for regulating the sittings of the Court, &c., for pleading, practice and procedure, duties of Officers, rights of Counsel, &c.

The Judges in effect contend that they are by this Section placed more under the control of the Local Government than they should be, claiming that they are Dominion Officers, and that their independence as Judges may be interfered with by the powers given to the Lieutenant-Governor in Council under the 17th Section of the Act.

With the exception of the 14th Section, to which reference will be made below, the Judges do not make any other objection to the Act, and from the correspondence transmitted, it appears that, with the exception of the 14th and 17th Sections, the Act was substantially framed by the Judges themselves.

The Legislative Authority over the administration of justice in the Province, including the constitution, maintenance and organization of Provincial Courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts, which is vested in the Provincial Legislatures, seems clearly to authorize the making of the provisions contained in the 17th Section, and unless there be grave reason to the contrary, the course which has been adopted by this Government, heretofore, in dealing with Provincial legislation, would seem to require that provisions so clearly within the powers of the Local Legislature, should be left to their operation, notwithstanding that they, or some of them, may not accord with the views which will be entertained respecting the expediency of such provisions.

Had the Provincial Legislature seen fit to confer on the Judges themselves the power of making the Rules of Court, as has been done in England, in Ontario and other Provinces, and as was done by the Parliament of Canada when establishing Supreme and Exchequer Courts, such a course would, I think, have been more satisfactory. The Attorney-General of British Columbia has, however, made a Report setting out the reasons why power was given to the Governor in Council instead of Judges, to make the Rules of Court. A copy of this Report was transmitted by the Lieutenant-Governor to this Government.

The 14th Section is as follows:—Courts of Assize and Nisi Prius, or of Oyer and Terminer and General Gaol Delivery, may be held, with or without Commissions, at such time and places as the Lieutenant-Governor may direct; and when no Commissions are issued the said Courts, or either of them, shall be presided over by the Chief Justice, or one of the other Judges of the said Supreme Court, either of whom, as the case may be, may, in civil proceedings, reserve the giving of this final decision on questions raised at the trial, and this decision, whenever given, shall be considered as if given at the time of the trial.

The Judges are of opinion, that so far as this section assumes to change the present practice of holding Courts for the trial of criminal cases, it is beyond the powers of the Provincial Legislature, as affecting procedure in criminal matters.

In the case of the Queen *vs.* Amer, reported in 42 Q. B. Reports of Ontario, page 391, Mr. Justice, now Chief Justice Adam Wilson, expresses opinions which go far

to show that the provisions of the section now under consideration are within the competency of a Provincial Legislature.

The matter is by no means so clear as to warrant me in recommending the disallowance of the Act. On the whole, therefore, I recommend that the Act be left to its operation.

Cap. 13.—"Judicial District Act, 1879."

This Act has also been protested against by the Judges. Their protest is against three Acts which they declare should be taken as one piece of Legislation, namely :—

"The Better Administration of Justice Act, 1878."

"The Judicature Act, 1879," (being Cap. 12 above referred to) and "The Judicial District Act, 1879."

Their protest is dated in Victoria, B.C., 29th April, 1879, and was not, of course, received here until the month of May, 1879.

"The Better Administration of Justice Act, 1878," was left to its operation by Order in Council dated 17th March, 1879, therefore the protest, so far as it refers to that Act, cannot now be considered.

"The Judicial District Act, 1879," seems to be a necessary adjunct to "The Better Administration of Justice Act, 1878," and as the policy of that Act has been adopted by the Parliament of Canada, and provision has been made for the salaries of the two additional Judges provided for by that Act, no other course seems open open than to leave the Act now under consideration to its operation, and I recommend accordingly.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 15th May*, 1880.

On a Report, dated 8th May, 1880, from the Hon. the Minister of Justice, upon two Acts passed by the Legislature of the Province of British Columbia in the year 1879, received by the Hon. the Secretary of State on the 2nd day of July, 1879, as follows :—

Cap. 12.—"An Act to amend the practice and procedure of the Supreme Court of British Columbia, and for other purposes relating to the better Administration of Justice."

Cap. 13.—"Judicial District Act, 1879."

On the recommendation of the Minister of Justice, the Committee advise that the above two Acts be left to their operation.

J. O. COTÉ,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd June, 1880.

I have the honor to report upon the three Acts of the Legislature of the Province of British Columbia reserved in my last Report, namely :—

Cap. 3.—"An Act to protect Winter Stock Ranges." I recommend that this Act be left to its operation.

Cap. 15.—"An Act respecting the 'Sumass Dyking Act, 1878.'" The disallowance of this Act was prayed for by Mr. E. L. Derby, on the ground that it was an interference with his rights. It is not necessary to pass any opinion

upon the fairness or unfairness of the provisions of the Statute, because, as I think, it is clearly within the legislative authority of the Provincial Legislature, and as no Dominion or Imperial interests are involved, it should be left to its operation. I recommend accordingly.

Cap. 23.—"An Act to amend the 'Licenses Ordinance, 1867.'" The Report upon this Act was delayed, as the question whether it was not an interference with the regulations of trade and commerce seemed to require consideration. I think, however, that it should be left to its operation, as it would seem to come within the powers of the Provincial Legislature, as given by Sub-section 9 of Section 92, of the British North America Act, 1867, namely, the power respecting shop, saloon, tavern, auctioneer, and other licenses. Even if there be doubts upon the subject, the course which has hitherto been pursued with respect to similar enactments would not warrant a disallowance of the Act, and would require that it should be left to its operation, leaving any person who may question its constitutionality to test the matter in the usual way before the Courts.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th June,* 1880.

On a Report dated 23rd June, 1880, from the Hon. the Minister of Justice, upon three Acts of the Legislature of the Province of British Columbia, reserved in his last Report, namely :—

Cap. 3.—"An Act to protect Winter Stock Ranges."

Cap. 15.—"An Act respecting the Sumass Dyking Act, 1878."

Cap. 23.—"An Act to amend the License Ordinance, 1867."

For the reasons stated in his Report the Minister recommends that the three Acts above alluded to be left to their operation, and the Committee submit his recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

BRITISH COLUMBIA, 43RD VICTORIA, 1880.

3RD SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th July, 1881.

I have the honor to report with respect to the Acts passed by the Legislature of British Columbia, in the year 1880, as follows :—

I recommend that this power of disallowance be not exercised with respect to the following, viz., Chapters 1 to 27 inclusive, 30, 31 and 32.

With reference to Chapter 4, intituled: "An Act to abolish Priority of and amongst Execution Creditors," I would remark that the Act is similar to an Act passed by the Legislature of Ontario in the year 1880, which has been left to its operation. I append hereto an extract from the Report of the Minister of Justice upon the Ontario Act and recommend that the attention of the Lieutenant-Governor of British Columbia be called thereto.

Chapter 10, intituled: "An Act respecting the fraudulent preference of Creditors by persons in insolvent circumstances," seems to entrench upon the subject matter of insolvency, but the question is doubtful and no inconvenience can arise by leaving the Act to its operation.

Chapter 28, intituled: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876," is precisely the same as the Act passed by the Legislature of British Columbia with the same title, in the year 1878, and which was disallowed upon the recommendation of the Minister of Justice, and for the reasons set forth in his Report to Council, dated 24th September, 1879. A copy of that Report has already been transmitted to the Lieutenant-Governor of the Province. The reasons for the disallowance of the previous Act apply to the present one, which should, I think, also be disallowed.

Chapter 29, intituled: "An Act respecting Tolls on the Cariboo Waggon Road," is as follows:—

"(1.) Notwithstanding any Act to the contrary, there shall be levied and paid unto and to the use of Her Majesty, her heirs and successors, from all persons whomsoever, by way of toll; upon every pound avoirdupois of rice carried from Yale in the direction of Cariboo, a sum of two cents per pound in lieu of one cent per pound."

"(2.) This Act shall not come into force until a day fixed by proclamation by the Lieutenant-Governor."

The reasons for the disallowance of the above mentioned Act apply also to this one, which, I think, should also be disallowed. I, therefore, recommend that the Acts passed by the Legislature of British Columbia, in the year 1880, chaptered twenty-eight and twenty-nine, intituled respectively: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876," and "An Act respecting Tolls on the Cariboo Waggon Road," be disallowed.

A. CAMPBELL,
Minister of Justice.

EXTRACT *from Report of Minister of Justice, dated 11th March*, 1881, *upon Cap.* 10, *of Acts of Ontario*, 1880, *referred to in foregoing Report.*

Taking this Act, section by section, much can be said in favor of the view that its provisions are within the Legislative authority of the Provincial Legislature, but, taking its effect, as a whole, much can be said in support of the contention that it entrenches upon the subject of Bankruptcy and Insolvency, over which the Parliament of Canada was exclusive Legislative authority.

In view of the doubts which exist with respect to the matter; in view also of the fact that the Insolvency Laws of the Dominion have been repealed; in view also of the provisions of Sec. 28 of the Act which provides that it is not intended to interfere with the Insolvency Laws which may, from time to time, be in force, but is intended to be subject to such laws, and subject, as aforesaid, to apply to all debtors, whether solvent or not; in view also of the fact that if the power of disallowance be not exercised any person wishing to test the constitutionality of the Act in any of the Courts will be at liberty to do so.

I recommend that the power of disallowance be not exercised with respect to the said Act.

JAS. McDONALD,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Honor the Deputy of His Excellency the Governor General in Council on the 29th July,* 1881.

On a Report dated 27th July, 1881, from the Hon. the Minister of Justice, with respect to the Acts passed by the Legislature of British Columbia in the year 1880, as follows, being Chapters 1 to 30 inclusive:

On the recommendation of the Minister of Justice, and for reasons stated in his Report, the Committee advise that the power of disallowance be not exercised with respect to all the Acts except Chapters 28 and 29, intituled, respectively: "An Act to amend the Cariboo Waggon Road Tolls Act, 1876," and "An Act respecting Tolls on the Cariboo Waggon Road," which they recommend may be disallowed.

The Committee further recommend that the attention of the Lieutenant-Governor of British Columbia be called to the remarks of the Minister of Justice relative to the Act, Chapter 4, intituled: "An Act to abolish Priority of and amongst Execution Creditors."

(Signed) J. O. COTÉ,
Clerk Privy Council.

Proclamation disallowing Chapters 28 *and* 29.

GOVERNMENT HOUSE, OTTAWA, Friday, 29th day of July, 1881.

Present:

HON. SIR W. J. RITCHIE, KNIGHT, DEPUTY OF THE GOVERNOR GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 8th day of May, 1880, pass two Acts, which have been transmitted, intituled respectively: Chap. 28, "An Act to amend 'The Cariboo Waggon Road Tolls Act, 1879,'" and Chap. 29, "An Act respecting Tolls on the Cariboo Waggon Road;"

And whereas the said Acts have been laid before the Deputy of the Governor General in Council, together with a Report from the Minister of Justice, recommending that the said Acts should be disallowed;

The Honorable the Deputy of His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of the Privy Council for Canada, to declare his disallowance of the said Acts, and the same are disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

J. O. COTÉ,
Clerk Privy Council.

I, Sir William Johnston Ritchie, Knight, Deputy of the Governor General of Canada, do hereby certify that the Acts passed by the Legislature of British Columbia, the 8th day of May, 1880, intituled respectively: "An Act to amend the Cariboo Waggon Road Toll Acts, 1876," and "An Act respecting Tolls on the Cariboo Waggon Road," were received by His Excellency the Governor General, on the 10th day of August, 1880.

Given under my hand and seal this 29th day of July, A.D. 1881.

W. J. RITCHIE,

Deputy Governor.

BRITISH COLUMBIA, 44TH VICTORIA, 1881.

4TH SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th June, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report that he has examined the following Acts passed by the Legislature of British Columbia, in the year 1881, 44th Victoria, received by the Secretary of State of Canada on the 21st June, 1881, and is of opinion that they are unobjectionable, and may be left to their operation:—

Chap. 2. An Act to constitute the Bishops of British Columbia, Caledonia and New Westminster Corporations sole.

Chap. 3. An Act to amend the "Cattle Ordinance, 1869."

Chap. 4. An Act respecting the transfer of Cattle Brands and Marks.

Chap. 5. An Act respecting Coroners' Inquests.

Chap. 6. An Act respecting the Supreme Court of Canada and the Exchequer Court of Canada.

Chap. 7. An Act to amend the law respecting Documentary Evidence in certain cases.

Chap. 8. An Act respecting Dogs.

Chap. 9. An Act to amend the Drainage, Dyking and Irrigation Act, 1873.

Chap. 10. An Act to amend the British Columbia Line Fences and Water Courses Act, 1876.

Chap. 11. An Act respecting the exemption of Firemen from July duty.

Chap. 12. An Act to further amend the Law of Property, and to relieve Trustees.

Chap. 13. An Act to amend the Mechanics' Lien Act, 1879.

Chap. 14. Loan Act, 1881.

Chap. 16. An Act to amend and consolidate the Municipal Acts.

Chap. 17. An Act to prevent the indiscriminate sale or use of Poisons.

Chap. 18. An Act to amend the Public Parks Act, 1876.

Chap. 19. An Act granting to John Adair, Junior, and Joseph Hunter, the right to erect a Dam at the outlet of the Quesnelle Lake, and to mine the bed of the South Fork River and other lands.

Chap 20. An Act to amend the Revenue Act, 1879.

Chap. 21. An Act for granting certain sums of money for the Public Service of the Province of British Columbia.

Chap. 22. An Act to prohibit the owners of Swine from permitting the same to run at large.

Chap. 23. An Act to amend the School Tax Act, 1876, and amending Acts.

Chap. 24. An Act to provide for the collection of a Provincial Revenue Tax.

Chap. 25. An Act to enable the Vancouver Coal Mining and Land Company (Limited) to sink Shafts and to construct a Railroad in or near to the Esplanade at Nanaimo.

Chap. 26. An Act to amend the City of Victoria Official Map Act, 1880.

Chap. 27. An Act to amend the Corporation of Victoria Waterworks Act, 1873.

Chap. 28. An Act to encourage the Manufacture of Woollen Goods in British Columbia.

With reference to the Act, Chapter 11, intituled: "An Act to carry out the objects of the better Administration of the Justice Act, 1878," and "The Judicial District Act, 1879," the undersigned would observe that the provisions of this Act have been objected to by the Judges of British Columbia, but in view of the fact that Your Excellency has already sanctioned an Order in Council, under Section 7 of the Act, the exercise of the power of disallowance has in effect been decided against, and this Act should therefore be left to its operation.

Upon the remaining, Act, Chapter 15, intituled: "An Act to amend the Gold Mining and Mineral Acts." the undersigned has the honor to report that objections have been taken by the Judges of British Columbia to the provisions of Section 10, but while not expressing the opinion that the provisions of that section are entirely free from objection, the undersigned thinks that those provisions are so clearly connected with the Administration of Justice in the Province and the jurisdiction of a Provincial Court, that the power of disallowance should not be exercised with reference to this Act, and recommends accordingly.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th June,* 1882.

The Committee of Council have had before them a Report dated 13th June, 1882, from the Minister of Justice, upon the Acts passed by the Legislature of British Columbia in the year 1881, 44th Victoria, received by the Secretary of State of Canada on the 21st June, 1881.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapter 1 to Chapter 28 inclusively, and they further advise that the attention of the Lieutenant-Governor of British Columbia be directed to the observations in the Report of the Minister of Justice upon Chapter 1 and Chapter 15 of the said Acts.

JOHN J. McGEE,
Clerk Privy Council.

BRITISH COLUMBIA, 45TH VICTORIA, 1882.

5TH SESSION—3RD PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th May, 1883.

To His Excellency the Governor General in Council:

The undersigned has had under consideration the Acts passed by the Legislature of the Province of British Columbia, in the Session of 1882, which are chaptered and intituled as follows:—

Chap. 1. An Act to amend the Coroners' Act, 1879.

Chap. 2. An Act to amend the Act respecting the Supreme Court of Canada and the Exchequer Court of Canada.

Chap. 3. An Act to provide for the establishment of a Provincial Superior Court.

Chap. 4. An Act to amend the Drainage, Dyking and Irrigation Acts.

Chap. 5. An Act to amend the British Columbia Line Fences and Water Courses Act, 1876, and the British Columbia Line Fences and Water Courses Amendment Act, 1881.

Chap. 6. An Act to amend the Land Act, 1875, and the Land Amendment Act, 1879.

Chap. 7. An Act respecting Free Grants of Land in certain cases.

Chap. 9. An Act to amend the Municipality Act, 1881.

Chap. 10. An Act to amend the Law relating to the Legal Profession.

Chap. 11. An Act to authorize the admission of Samuel Perry Mills as a Solicitor and Barrister at Law.

Chap. 12. An Act to authorize the admission of Charles Wilson as a Barrister and Solicitor of British Colombia.

Chap. 13. An Act for the relief of Andrew Leamy, of Yale, British Columbia.

Chap. 14. An Act to incorporate the New Westminster and Port Moody Railway Company.

Chap. 15. An Act to incorporate the Vancouver Land and Railway Company.

Chap. 16. An Act to repeal the Esquimault and Nanaimo Railway Act, 1875.

Chap. 17. An Act to amend the Public School Act, 1879.

Chap. 18. An Act for granting certain sums of money for the Public Service of the Province of British Columbia.

The undersigned respectfully recommends that the Acts mentioned be left to their operation, save as regards Chapter 8, which, for reasons given in a separate Report, the undersigned recommends be disallowed.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 12th May,* 1883.

The Committee of the Privy Council have had before them a Report dated 8th May, 1883, from the Minister of Justice, with respect to the Acts, being Chapters 1 to 18 inclusive, passed by the Legislature of the Province of British Columbia in the Session of 1882, 45th Victoria.

The Committee advise on the recommendation of the Minister of Justice that the said Acts be left to their operation, save as regards Chapter eight, which the Minister advises be disallowed for the reasons set forth in a separate Report.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th May, 1883.

The undersigned would respectfully call attention to Chapter 8, intituled: "An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal," passed by the Legislature of British Columbia in 1882, 45th Vic., the undersigned observes that by Section 4 of this Act the Lieutenant-Governor is authorized to appoint such persons as he may deem proper as Gold Commissioners or Assistant Gold Commissioners, either for the whole Province or for any particular districts therein.

By Section 5 there purports to be established a Court or Courts in mining districts, to be presided over by a Gold Commissioner or Assistant Commissioner, and by Section 6 it is declared that each of those Courts "shall be a Court of Record, and shall have jurisdiction as a Court of Law and Equity, to hear and determine all mining disputes arising in the district or locality in which it is appointed to be held, including actions arising upon contracts between any free miners and other persons, relating to the supply to such free miners of goods, merchandize, materials, or implements used in mining or in connection therewith, and the Gold Commissioner shall have power in such disputes or actions, to give such judgment as he may deem just, and to enforce the same according to the practice of the Supreme Court or any Superior Court, by writ of execution, process of contempt, proceedings for attachment of debts or other process, or by any means provided by this Act."

By other sections of the Act the jurisdiction of the Mining Court may be exercised by every County Court, and appeals are allowed from the Mining Court to the Supreme Court or any Superior Court sitting in the judicial district within which the Mining Court appealed from may be situated.

It will be seen, therefore, that by this Act the appointment of a Judge performing judicial functions, whose appointment, under "The British North America Act, 1867," should be made by the Governor in Council, is in effect to be made by the Lieutenant-Governor of British Columbia.

The undersigned is of opinion that Legislation thus offending against the Constitutional principles laid down by the British North America Act, 1867, should not be allowed to go into operation, and he humbly advises that the Act in question be disallowed.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 12th May*, 1883.

On a Report dated 8th May, 1883, from the Minister of Justice with respect to an Act, Chapter 8, intituled: "An Act to consolidate and amend the Laws relating to Gold and other Minerals excepting Coal," passed by the Legislature of the Province of British Columbia, in the Session of 1882, 45th Victoria;

The Committee advise, on the recommendation of the Minister of Justice, and for reasons stated in his Report, hereto attached, that the said Act, being Chapter 8, be disallowed.

JOHN J. McGEE,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Saturday, 12th day of May, 1883.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 21st day of April, 1882, pass an Act which has been transmitted, intituled: "An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal;"

And whereas, the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice recommending that the same should be disallowed;

His Excellency the Governor General has therefore this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,
Clerk Privy Council.

I, Sir John Douglas Sutherland Campbell, commonly called the Marquis of Lorne, Governor General of Canada, do hereby certify that the Act passed by the Legislature of British Columbia, the 21st day of April, 1882, intituled: "An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal," was received by His Excellency the Governor General on the 13th day of May, 1882.

Given under my hand and seal this 12th day of May, 1883.

LORNE.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th May, 1883.

To His Excellency the Governor General in Council:

The undersigned respectfully recommends that the annexed case, respecting the status of the Supreme Court of British Columbia and the powers of the Legislature

of that Province to legislate in respect of procedure in that Court, and the residences of the Judges thereof, be referred to the Supreme Court for hearing and consideration, and that the Court may hear and consider the same and certify to the Governor in Council their opinions upon the questions submitted, and that if Your Excellency approve of this Report a copy thereof, and of the said case, be transmitted to the Registrar of the Supreme Court.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 15*th May*, 1883.

The Committee of the Privy Council have had under consideration a Report, dated 14th May, 1883, from the Minister of Justice, in which it is recommended that the annexed case, respecting the status of the Supreme Court of British Columbia and the power of the Legislature of that Province to legislate in respect of procedure in that Court, and the residences of the Judges thereof, be referred to the Supreme Court for hearing and consideration, and that the Court may hear and consider the same, and certify to the Governor in Council their opinion upon the questions submitted.

The Committee concur in the recommendation of the Minister of Justice, and advise, upon Your Excellency's approval, that a copy of the Report of the Minister of Justice and of the case submitted herewith, be forwarded to the Registrar of the Supreme Court of Canada.

JOHN J. McGEE,
Clerk Privy Council.

BRITISH COLUMBIA, 46TH VICTORIA, 1883.

1ST SESSION—4TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th September, 1883.

To His Excellency the Governor General in Council:

The undersigned begs leave to report that he has had under consideration the following Acts passed by the Legislature of the Province of British Columbia, namely:—46 Vic. (1883), Chap. 26, an Act intituled: "An Act to incorporate the Fraser River Railway Company," and Chapter 27, intituled: "An Act to incorporate the New Westminster Southern Railway Company."

The 9th Section of the Act incorporating the Fraser River Railway Company is as follows :—

" 9. The company may lay out, construct, acquire, equip, maintain and work a continuous line of railway, with double or single track, of iron or steel, and uniform gauge of four feet and eight one-half inches from the 49th parallel, north latitude, at a point between Seiniahends Bay and the eastern line of Township 22, New Westminster District, to some point on the Canadian Pacific Railway between the eastern line of Township 27, New Westminster district, and the western terminus of the Canadian Pacific Railway, and from that point, or some point west of that point on the said Canadian Pacific Railway to the City of New Westminster."

The 10th Section of the Act incorporating the New Westminster Southern Railway Company is as follows :—

" 10. The company and their agents or servants shall have full power under this Act to construct a railway with double or single track, of four feet eight and one-half inches gauge from some point near the 49th parallel of north latitude, betwen Seiniahends Bay and Township 16, in the District of New Westminster, to the City of New Westminster and to some point on Burrard Inlet, and to construct all necessary bridges over rivers crossing the said line between the above points, but so as not to impede navigation."

By reference to the Report of the Chief Engineer of Government Railways, dated 2nd June, 1883, with maps A and B annexed to this Report, the area within which the two Companies may construct railways will be seen. Each company is given power to construct a railway from the boundary of the Province to points within the Province.

It is possible that the undertakings come within exception (*a*) of the 10th Paragraph of the 92nd Section of the British North America Act, 1867, by which local works and undertakings of the following class, namely :

" Lines of steam and other ships, railways, canals, telegraph and other works and undertakings connecting the Province with any other or others of the Provinces or extending beyond the limits of the Province," are declared not to be within the Legislative authority of the Legislatures of the Provinces.

However, it is unnecessary to consider whether these Acts are or are not within the Legislative authority of the Province of British Columbia, for it is clear from them that the objects which the Corporations have in view are contrary to the legislation of Parliament and to the settled policy of the country. There can be no doubt that in case these railways are constructed they will direct trade from Canada to the United States, and from the Canadian system of railways to the United States system of railways.

The policy of the Government in this behalf, confirmed by Parliament, was given expression to in the following clause of the contract between the Government of Canada and the Canadian Pacific Railway Company, dated 21st October, 1880 :—

" 15. For twenty years from the date hereof, no line of railway shall be authorized by the Dominion Parliament to be constructed south of the Canadian Pacific Railway from any point at or near the Canadian Pacific Railway, except such line as shall run south-west or to the westward of south-west ; nor to within fifteen miles of latitude 49, and in the establishment of any new Province in the North-West Territory, provision shall be made for continuing such prohibition after such establishment until the expiration of the said period."

For these reasons, which the undersigned has had occasion previously to state more fully than it is now necessary to do, he respectfully recommends that the said Acts, Chapter 26, " An Act to incorporate the Fraser River Railway Company," and Chapter 27, "An Act to incorporate the New Westminster Southern Railway Company," be disallowed.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellencey the Governor General in Council on the 17th October*, 1883.

The Committee of the Privy Council have had under consideration a Report herewith, dated 25th September, 1883, from the Minister of Justice, in which it is recommended, for the reasons therein set forth, that the following Acts, passed by the Legislature of British Columbia, 46 Vic., Chap. 26, "An Act to incorporate the Fraser River Railway Company," and Chap. 27, "An Act the incorporate the New Westminster Southern Railway Company," be disallowed.

The Committee advise that the said Acts be disallowed accordingly, and that a copy of this Report be forwarded to the Lieutenant-Governor of British Columbia for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

Mr. J. Davie to the Minister of Justice.

OTTAWA, 14th June, 1883.

SIR,—A petition to His Excellency the Governor General will shortly be forwarded, signed by the settlers of the Matsqui Prairie, British Columbia, praying for the disallowance of a private Act passed during the last Session of the British Columbia Legislature—No. 22—and intituled: "An Act to amend the 'Sumass Dyking Act, 1878.'"

An informally drawn petition has already been received by me for presentation, and is now in my possession, signed by all the settlers in the district excepting one: but as three or four weeks will elapse before the new and regularly drawn petition, which I have sent for, will have been signed and have reached its destination, I desire, on behalf of the settlers of the Matsqui Prairie, to at once state the grounds of their objection to a measure which, if allowed to pass into law, will cause the loss to many of their homesteads, and very seriously distress them all.

The settlers and the promoter of the objectionable Bill are the only parties whose interests are affected by the measure, yet the same was passed by the House of Assembly against the unanimous protest of the settlers.

The settlers denounce the amendment as contrary to reason and natural justice and equity, and on this ground—and the same having been passed against their protest—base their claim to its disallowance by His Excellency. I respectfully quote the remarks of Chief Justice Draper in the case of "*re* Goodhue," 19 Grant's Chancery Reports. At page 382 he says: "* * Private Acts of Parliament are upheld as common modes of assurance, being founded upon the actual or implied assent of those whose interests are affected. * * * But this power of binding private rights by Acts of Parliament is, as Sir William Blackstone suggests, to be used with due caution." And at page 384 (19 Grant) the same learned Judge says: "In regard to the absence of a second Chamber, it may be further observed, so far at least as estate or private Bills are concerned, that as such bills involve ordinarily no mere party political consideration, all those whose interests are or may be touched, have a right, in the first place, to expect a careful examination of their contents on the part of the Provincial Executive, and a withholding of the Royal assent if it is found that the promoters of the Bill are seeking advantages at the expense of others whose interests are as well grounded as their own. And further, if from oversight, or any other cause, provisions should be inserted of an objectionable character, such as the deprivation of innocent parties, of actual, or even possible interests, by retroactive legislation, such Bills are still subject to the consideration of the Governor General, who, as representative of the Sovereign, is entrusted with authority,—to which a corresponding duty attaches, to disallow any law contrary to reason or natural justice and equity" * * *

"it" (private legislation) "does not become law until the Lieutenant-Governor announces his assent, after which it is subject to disallowance by the Governor General," and at page 385, in speaking of the limit which the Constitution applies to the Legislature, when acting within the scope of its authority, the same learned Judge continues: "It does provide checks, for the Lieutenant-Governor may withhold the necessary assent, or the Governor General may disallow Acts to which his subordinate has assented." So much of the learned Judge's judgment as I have quoted is concurred in by the Court, and see per Morrison, J., at page 427.

The "Sumass Dyking Amendment Act, 1883," revives rights of action and advantages to the promoter of the Bill, which his failure to comply with the principal Act had forfeited, and therefore we say is *ex post facto* and unjust. If it be suggested that the promoter has complied with the former Act, or has rights under that Act, then we reply, let him pursue those rights, and what is the need of this amendment which is so objectionable to the settlers?

The former or principal Act (*i.e.* the Sumass Dyking Act, of 1878), as to Section 12, was the embodiment of a contract between the promoter, Mr. Derby, and the Matsqui settlers, to dyke their farms. The scheme was an adventure from which, in the event of success, the promoter would reap a handsome return, in the shape of assessments to be levied upon the settlers' lands, augmented by a Government grant of several thousands of acres of land. The Act contemplated the dyking of other lands of the Fraser River also (*vide* Sections 11 and 13), but no attempt was made to dyke any other than the Matsqui portion.

It will be observed that as a protection to the settlers, Section 12 contemplates three conditions to the promoter enjoying the benefits of the Act.

1. Effectual dyking.

2. Dyking agreeably to plans and specifications then in the office of the Commissioner of Crown Lands and Works.

3. Absolute protection from the overflow of the Fraser River.

Under no less stringent terms would the settlers consent to countenance and pay for a dyke, which, under Section 31 of the Act, for all time, they would be bound to maintain and keep in repair.

The criterion of effectual dyking, mentioned in the original written articles submitted by Mr. C. B. Sword, on behalf of the promoter of the original Bill, to the settlers, and accepted by them, was that the dyke should withstand a similar rise to that which took place in 1876, being the highest water upon record. This same criterion is also incorporated in the Act, Section 8, which says: "In ascertaining whether any particular piece of land is now liable to overflow from the Fraser River, the height to which the water reached in the summer of 1876 shall be the criterion."

Although the Sumass Dyking Act of 1878 varied from the written proposal submitted by Mr. Sword to the settlers—by extending the time contemplated for completion (*vide* Section 13) until the 1st July, 1880, still the settlers waived any ground of complaint on that score.

After the passage of the Act (1878), some show was made by the promoter of an attempt to carry out his obligations, but he soon disposed of the whole of his privileges under the Act to Mr. C. B. Sword. Work of a certain class was continued at intervals, but the specifications were ignored in essential particulars, and in everything pertaining to the work wilful negligence and inability were displayed, coupled with gross carelessness. The accuracy of this statement is abundantly proved by the official reports which are to be found in the British Columbia Sessional Papers for 1880, pages 298 to 302.

The consequence was an entire failure to reclaim the land, which has since been overflowed the same as before any attempt at dyking was made. One fatal deviation from the specifications condemned the attempted dyke beyond remedy, and that was a change in the location of the levee, which levee was placed from 50 to 100 feet nearer the river than the plans and specifications called for, demonstrating, from the inroads which the river is continually making upon its banks, the fact that the dyke

cannot last, and that it is only a question of time for the whole concern to be washed into the river. (*Vide* the reports quoted above).

However, the Government made the promoter the land grant which the principal Act provided in the event of his fulfilling the terms of the Act. That the Government were deceived in their grant the reports of the Engineers show and the solicitation for the amendment admits. It is acknowledged that Mr. Sword has expended some capital in the dyking scheme, but it is not just that the settlers should be called upon to recoup Mr. Sword for his useless outlay, which has been of no benefit to the settlers, but which might have been otherwise had the dyke been located in the right place and the specifications followed.

I have the honor to enclose printed statement of facts prepared by the settlers in February, 1882, also copy of one of the numerous protests against the way in which the dyke affair was being carried on.

In the commencement of 1882, Mr. Sword mortgaged to Messrs. M. W. T. Drake and R. E. Jackson the lands granted by the Government under the Act, and all interest which he had or claimed under the "Sumass Dyking Act, 1878," and about that time, Messrs. Drake and Jackson, as such mortgagees, commenced suit in the Supreme Court of British Columbia against several of the settlers to recover an instalment of the assessments claimed to be payable under the Act, with interest. The actions were based upon the alleged acceptance of the work by the Government and their grant of the land, and were defended on the ground that the action of the Government (even if they had accepted the work, which was denied) afforded no right of suit, and that the promoter of the "Sumass Dyking Act, 1878," had failed to carry out the terms of the Act. Upon the settlers pressing the actions to hearing, Messrs. Drake and Jackson discontinued the same, paid the costs, and brought in and carried through their private Bill—the amendment now complained of.

Section 1 of the amendment limits the responsibility of the promoters to protecting the lands from overflow for any two consecutive years, whereas the original bargain was for absolute protection—the high water of 1876 was to be the criterion; now there is to be no criterion at all. Apart from the objection that this is an alteration of a contract against the will of one of the parties to it, this new provision is palpably unjust in view of the fact that the high water in different seasons varies, during some exceptional years there is practically no high water at all—and this state of things may last for two or more consecutive seasons.

It is thus quite obvious that a very imperfect dyke—in fact none at all—might, during exceptional seasons—which time is bound to bring about—fill all the requirements of the amendment, and so complete the liability of the settlers; imposing moreover upon them, under the combined effect of Section 8 of the amendment and Section 31 of the principal Act, and sections there incorporated, the more serious future responsibility of maintaining and supporting what might be, and, in view of the entire departure from plans and specifications added to misplacement of the line of levee, must certainly be—an utterly useless work.

But the injustice of the "Sumass Dyking Amendment Act" does not rest even here, for under Section 9, in conjunction with Section 12, of the principal Act, the promoter is now allowed to collect four years' interest moneys from the unfortunate settlers, *i.e.* interest from the 1st July, 1878, to 1st July, 1882, at the rate of eight per cent. per annum upon the amounts for which their lands, in the event of successful dyking, would ultimately be liable—and this irrespective of whether the promoter dykes or tries to dyke the land or not; my last advices from the settlers inform me that demands have already, since the passage of the amendment, been made upon them by Messrs. Drake and Jackson for immediate payment of this interest money; and finally, Section 10 of the amendment allows the promoter to make any deviation from the line of dyke and to construct the same in such manner as he may think proper.

The proviso for arbitration affords no protection, for the promoter is at liberty to call successive arbitrations from time to time, until time and repeated efforts shall

have at length afforded him a favorable award, whatever the condition of his work may be. Section 11, which says that the expenses of the arbitrators or umpire shall be borne by the promoter is mischievous. A tribunal mainly constituted and wholly paid by one party to a controversy is not pre-eminently calculated to accord the other side justice.

The British Columbia Legislature, which consists of twenty-five members only, in allowing this Bill (*i. e.* the amendment) to pass, which it did by a narrow majority, acted upon very imperfect information, and to show how entirely misunderstood the aim of the amendment was, it is only necessary to refer to its manifest injustice, and to the further fact that Mr. M. W. T. Drake, who chanced to be a member of the House and a member of the Government likewise, the mortagee of the privileges conferred by the original Dyking Act and of those sought by the amendment, and who is now demanding the interest moneys from the settlers, was allowed to and did vote for his own measure, and his vote and advocacy it was which procured the passage of the amendment, notwithstanding the rules and orders which inhibit any person who has a direct pecuniary interest in any question from voting.

Upon the ground that the amendment is an alteration without their consent, and against their protest, of the bargain formulated by the "Sumass Dyking Act of 1878;" that it is *ex post facto* and retroactive in its operation; that its provisions are tyrannical and unfair, and that it is a private Act, introduced into and carried through the House of Assembly by the vote of its promoter, the settlers submit that they have made out a just case to warrant His Excellency's disallowance of the "Sumass Dyking Amendment Act, 1883."

I have, &c.,

THEODORE DAVIE.

Hon. Sir ALEX. CAMPBELL,
Minister of Justice,

To His Excellency the Governor General of Canada:

The humble petition of the undersigned settlers of the Matsqui Prairie, in the Province of British Columbia, sheweth:—

1. That your petitioners are settlers and the owners of several portions of a tract of land situate on the bank of the Fraser River: and such land is subject to periodical overflows of the said river.

2. That in the year 1878, one Ellis Luther Derby made a proposition to your petitioners, the settlers, to dyke their said lands; and consequently an agreement was entered into between the said Ellis Luther Derby and the settlers, under which Mr. Derby agreed to effectually dyke your petitioners' said lands, and so as to successfully resist the highest overflow which had at that time been known, viz., an unusual overflow which had occurred in the summer of 1876; and such dyke was to be successfully completed on the 1st June, 1878; and in consideration thereof, the settlers' lands were to stand charged with payments of $4.00 and $2.50 per acre, according to location.

3. The terms of the above agreement were submitted by Mr. C. B. Sword, hereinafter mentioned, as agent for the said Ellis Luther Derby, to the settlers, in writing, and were accepted by them.

4. In pursuance of the said agreement, the said E. L. Derby then applied to and obtained from the Legislative Assembly of British Columbia, a private Act of Parliament known as the "Sumass Dyking Act, 1878," embodying, *inter alia*, the terms of the said agreement, excepting as to the time limit for completion of the work, which was extended to July, 1880; and your petitioners crave leave to refer to the said Act, with the terms of which, so far as it binds them, your petitioners are and have always been ready to abide.

5. The promoter of the Bill did not comply with the terms of the same; but, after the passage of the Act, disposed of his interest therein to the said Mr. C. B. Sword, and certain dykage works of an inferior kind were commenced and carried on, but not in any way according to plans and specifications or in compliance with the terms of the Act.

6. The settlers, your petitioners, from time to time protested against the improper manner in which the dyking works were proceeding, and at length, the time contemplated by the Act for the complete construction of the works having expired, and their lands remaining undyked, and continuing to be overflowed as before, withdrew their assent from further continuance of the dykage scheme.

7. Matters continued thus until the year 1883, when the said C. B. Sword, having previously mortgaged all his interest under the "Sumass Dyking Act, 1878," to Messrs. M. W. T. Drake and R. E Jackson, applied to the Legislature to amend the "Sumass Dyking Act, 1878," aforesaid, and the Legislature, of which the said Mr. M. W. T. Drake was a member, and who voted for and carried through the amendment, did amend the same, accordingly, in such a manner as relieves the promoter from effectually dyking the land: authorizes him to construct the dyke in such manner as he sees fit, while still collecting the assessment and interest from the settlers; is otherwise a flagrant violation of the original compact, and generally unjust and inequitable in its provisions, and your petitioners crave leave to refer to the said amendment which is numbered 22, amongst the Statutes of British Columbia for 1883, and for greater particularity as to the unjust provisions of the "Sumass Dyking Amendment Act, 1883," and otherwise in relation thereto, your petitioners humbly crave leave to further refer to a letter written on behalf of your petitioners by their solicitor, Mr. Theodore Davie, to the Honorable the Minister of Justice, and dated the 14th June, 1883.

Your petitioners humbly pray that your Excellency will be pleased to disallow the said "Sumass Dyking Amendment Act, 1883," and yours petitioners will ever pray.

(Signed) EDWARD M. S. HARRIS, and others.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 14*th June,* 1883.

On a Report dated 18th of May, 1883, from the Minister of Railways and Canals submitting that the Bill of the Legislative Assembly of the Province of British Columbia, for the incorporation of a Company to be called "The Columbia and Kootenay Railway and Transportation Company," the objects of which are set forth to be the "running and navigating a line of steamers from a point on Kootenay River, where the southern boundary line of British Columbia intersects the said river, and through and throughout the Kootenay Lake and its navigable tributaries, and of constructing and operating a line of railway from the outlet of Kootenay Lake to the Columbia River, and of running a line of steamers on said river from a point where it intersects the southern boundary line of British Columbia to the head of navigation," further the said Bill contemplates the grant of a subsidy in land by the Provincial Government in aid of the scheme.

The Minister further submits that under date the 28th of April last, a public meeting was held in the City Hall, Victoria, at which resolutions were adopted protesting against the passage of the Bill incorporating this Company and urging that the assent of His Honor the Lieutenant-Governor should be withheld until the matter has been considered by the Government of the Dominion, and that the objections urged in the said resolutions, a copy of which has been transmitted to Ottawa, state that the Bill should give the Company the control of the trade of the most valuable portions of the Province; that it is unfair to the Canadian Pacific Railway

Company, that the Local Government is without definite information as to the value and character of the lands proposed to be given; that a mischievous monopoly would be established; that it would deprive the mining and agricultural classes of rights defined by the laws of the Province, that it would convey to three Americans 750,000 acres of the best land in the Province, free of taxes, and finally, that a great majority of the people of the Province are opposed to the Act.

The Minister represents that the Chief Engineer of Railways, in a Report dated the 16th instant, has expressed himself as fully concurring in the views put forward in the said resolutions, and has stated it as his opinion that the granting of the powers and privileges and of the trusts of land applied for would be most injudicious.

He draws attention to the fact that the Company consists almost wholly of American capitalists, and observes that notwithstanding the representations made that the proposed Railway will connect by steamer with the Canadian Pacific Railway and thus bring traffic to that road and to the Canadian seaboard, provision is made for communication with the southern boundary, and that the road under consideration would, in all probability, eventually become a feeder to the Northern Pacific Railway. That meanwhile the scheme, if carried out, would inflict injustice on our own people by placing the furnishing of supplies to the Canadian Pacific Railway, while under construction, almost wholly in the hands of American traders and farmers, who would thus obtain a control of the trade of the south-eastern portion of the Province which it would be hard to recover from them.

The Chief Engineer, therefore, considers that the carrying out of the scheme would entail consequences prejudicial to the interests of the people of British Columbia, the extent of which it is at present impossible to estimate.

The Minister desires to express his entire concurrence in the view of this matter taken by the Chief Engineer as above stated, and to submit the question for consideration.

The Committee recommend that advantage be taken of the intended visit of Sir Alexander Campbell to British Columbia, to authorize him to make full enquiry into this subject, to confer with the Government of the Province, and to report thereon with all convenient speed.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th September, 1883.

To His Excellency the Governor General in Council:

The undersigned has the honor respectfully to report that he has had under consideration an Act passed by the Legislature of the Province of British Columbia, at its last Session 46th Vic. (1883) Chap. 25, intituled: "An Act to incorporate the Columbia and Kootenay Railway and Transportation Company."

The objects which the Company have in view, and the powers given to them, which are material to the consideration of this Act, are defined in the 9th, 10th and 12th Sections of the Act. These sections are as follows:—

Section 9. "The Company shall acquire, build, equip and maintain a line of steamers and other vessels for the purpose of carrying freight and passengers to and fro from that point on Kootenay River where the southern boundary line of British Columbia intersects the said river, thence down the said river to Kootenay Lake and through and throughout the said lake and its navigable tributaries.

10. "The Company shall lay out, construct, acquire build, equip, maintain and work a continuous line of Railway from the outlet of Kootenay Lake through the Selkirk Range of mountains to a point on the Columbia River as near as practicable

to the junction of the Kootenay with the Columbia River in British Columbia, and such Railway shall be built either upon the broad or narrow gauge, and be known as the Columbia and Kootenay Railway.

12. "The Company shall acquire, build, equip, maintain, run and navigate a line of steamers suitable for passengers and freight traffic and other vessels upon the Columbia River to and fro from the point on the Columbia River where the Columbia and Kootenay Railway from Kootenay Lake terminates, to the point on the west bank of the Columbia River where the Canadian Pacific Railway shall strike the said river, and cross the same near the Eagle Pass; or, in the event of the Canadian Pacific Railway not crossing the Columbia River to the point where a waggon road or railway from Shuswap Lake to the Columbia River may terminate thereon."

At a public meeting held on the 28th April last in the City Hall, Victoria, resolutions were adopted in which certain objections to the undertaking were stated. These are fully set out in an Order in Council of the 14th June last, by which the undersigned was authorized to make full enquiries into the subject, and during his visit to British Columbia to confer with the Government of this Province and report on the matter with all convenient speed.

In accordance with the terms of the Order in Council the undersigned conferred with the British Columbia Government and made full enquiry into the subject.

Careful consideration has been given not only to the statements made in favor of the undertaking by the promoters and those friendly to it, but also to the statements of those opposed to the undertaking, that its completion will tend to divert the trade of British Columbia to the United States.

So far as the construction of the proposed line of Railway is concerned, no exception can be taken to the undertaking in itself as to the power of the Legislature to give the Company authority for its completion.

In regard to the power given to the Company to establish a line of steamships two questions arise for consideration:—

(1) Will the Company, by means of the line of steamships, divert trade from Canadian railways and territory, to United States railways and territory? and

(2) Does the Act authorize the Company to establish a line of steamships between the Province of British Columbia and a foreign country?

The British Columbia Government have expressed their willingness to ask the Legislature to amend the Act so as to make it clear that the Company have the power to establish a line of ships between the Province and the United States. That amendment being made, the undersigned is of opinion, that the Act may safely be left to its operation.

The undersigned, therefore, respectfully recommends that the British Columbia Government be invited to amend the Act in that direction by providing that nothing therein contained shall authorize the Company to establish a line of steamships between the Province of British Columbia and any British or foreign country, and that further action in regard to the Act be, for the present, deferred.

The undersigned further recommends that it this Report is approved the substance of it be communicated to the Lieutenant-Governor of British Columbia for the information of his Government.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 19*th October,* 1883.

The Committee of the Privy Council have had before them a Report, herewith attached, dated 25th September, 1883, from the Minister of Justice, upon an Act passed by the Legislature of the Province of British Columbia at its last Session, 46th

Victoria (1883), Chap. 25, intituled: "An Act to incorporate the Columbia and Kootenay Railway and Transportation Company."

The Committee advise that action in regard to the said Act be, for the present, deferred, as recommended by the Minister of Justice, and, furthermore, that the substance of this Report be communicated to the Lieutenant-Governor of British Columbia for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 10th January, 1884.

To His Excellency the Governor General in Council:

The undersigned begs leave respectfully to report upon the Acts passed by the Legislature of the Province of British Columbia during the first Session of 1883:

Chap. 5. "An Act relating to County Courts," establishes County Courts for the several districts therein named, and defines the jurisdiction of the Courts.

This Act was probably suggested by the difficulties which arose in regard to the districting of the Superior Court Judges.

The Act assigning the Districts of the Judges of the Supreme Court of the Province having been pronounced within the powers of the Legislature of British Columbia, the undersigned, when at British Columbia, last year, arranged, with the Government of that Province, that Mr. Justice McCreight should be assigned to the District of New Westminster, and Mr. Justice Walkem to the District of Kamloops, and also that an Officer, to be at the same time County Court Judge and Stipendiary Magistrate for Cariboo and Lillooet, should be appointed by the two Governments, the Dominion paying his salary as Judge, and the Province of British Columbia his salary as Stipendiary Magistrate.

For the present it is, therefore, only necessary to make provision for the salary of the Judge of the County Court of Cariboo.

A question arose as to whether inconvenience in the administration of justice might not be occasioned by the existence of this Act, in view of the fact, that the new County Court Judges were not appointed, but by reference to Sec. 34, it will be seen that it is provided that in all cases where, from any cause, the office of a County Court Judge in any district shall be vacant or not filled up, it shall be lawful for any Judge of the Supreme Court to perform the duties of a County Court Judge in such district, and he shall have all the powers of a County Court Judge for such a purpose; and any Judge of the Supreme Court, when in the Electoral District of Cassiar, may hold a County Court there."

In view of these facts the undersigned respectfully recommends that this Act be left to its operation.

Chap 10. "An Act to amend the Sumass Dyking Act, 1878."

Certain settlers at Matsqui interested in the reclamation of lands referred to in this Act, petitioned for its disallowance on the ground that it is an alteration without their consent and against their protest of the bargain formulated by the Sumass Dyking Act, 1878, that it is *ex post facto* and retroactive in its operations, that its provisions are unfair and tyrannical, and that it is a private Act introduced and carried through the House of Assembly by the vote of its promoter.

The undersigned, when in British Columbia, had the advantage of learning personally from the promoter of the Act, and from those opposed to it, their representations in support of their respective views.

In addition, Mr. Sword, the promoter of the Act, put his reply in writing.

From the papers and from all that was said, the undersigned is not prepared to state that the petitioners have sustained the grounds taken in their petition, but

without expressing an opinion in respect of the merits of the case, the undersigned is of opinion that the Act is within the authority of the Legislature of British Columbia, and he respectfully recommends that it be left to its operation.

Chap. 14. "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province," has been repealed, and a new Act in accordance with the arrangement made between the undersigned, for the Government of Canada and the British Columbia Government, substituted in lieu thereof.

Chap. 25. "An Act to incorporate the Columbia and Kootenay Railway and Transportation Company," was reported upon, on the 25th September, 1883.

In that Report the undersigned recommended that the British Columbia Government be invited to ask the Legislature to amend the Act by providing that nothing therein contained should authorize the Company to establish a line of steamships between the Province of British Columbia and any foreign country, and that further action in regard to the Act be deferred.

This recommendation was approved by Order in Council, 19th October, 1883.

The undersigned has lately received a telegram from Mr. Smythe stating that a Bill, embodying the amendments to this Act suggested in that report, had been passed, without division.

The undersigned, therefore, recommends that this Act be left to its operation.

Chap. 26. "An Act to incorporate the Fraser River Railway Company," was reported upon on the 25th day of September, 1883, and was, by Order in Council of the 17th day of October, A. D. 1883, disallowed.

Chap. 27. "An Act to incorporate the "New Westminster Southern Railway Company," was reported upon on the 25th day of September, A. D. 1883, and was, by Order in Council of the 17th day of October, A. D. 1883, disallowed.

The undersigned respectfully recommends that the remaining Acts of the said Session, the Titles and Chapters of which are as follow, be left to their operation, namely :—

Chap. 1. "An Act to amend the Interpretation Act, 1872."

Chap. 2. "An Act to amend the 'Coal Mines Regulation Act, 1877.'"

Chap. 3. "An Act to encourage Coal Mining."

Chap. 4. "An Act to amend the Coroners Amendment Act, 1882."

Chap. 6. "An Act to fix the times for the holdings of Courts of Assize and *Nisi Prius*, and of Oyer and Terminer, and of General Gaol Delivery."

Chap. 7. "An Act to repeal the Provincial Superior Court Act, 1882."

Chap. 8. "An Act to repeal the 'Creditors Relief Act, 1880,' and further purposes."

Chap. 9. "An Act to facilitate the attachment of Debts."

Chap. 11. "An Act to amend the Law of Evidence."

Chap. 12. "An Act relating to Ferries and Municipalities."

Chap. 13. "An Act for the better protection of certain Animals and Birds."

Chap. 15. "An Act respecting Jurors and Juries."

Chap. 16. "An Act to remove disqualifications of Justices of the Peace in certain cases."

Chap. 17. "An Act to amend the 'Land Act, 1875,' and the 'Land Amendment Act, 1882.'"

Chap. 18. "An Act to amend the Married Women's Property Act, 1873."

Chap. 19. "An Act to amend the Mineral Act, 1882."

Chap. 20. "An Act granting to James J. May and Charles W. D. Clifford, the sole right to prospect for Minerals contained in lodes on Vitalle Creek, Omimica."

Chap. 21. "An Act to amend the Municipality Act, 1881."

Chap. 22. "An Act to amend the Letters Patent establishing a Municipality on Salt Spring Island."

Chap. 23. "An Act to legalize the appointments of certain Provincial Officers."

Chap. 24. "An Act to amend an Act granting to John Adair, jr., and Joseph Hunter the right to erect a dam at the outlet of the Quesnelle Lake and to mine the bed of the South Fork River and other lands."

Chap. 28. "An Act to authorize Robert Dunsmuir and Wadham Weston Diggle to construct a Railway to connect the South Wellington Wharf at Departure Bay, and the South Wellington and Wellington Railways."

Chap. 29. "An Act to regulate the gauge of Sleighs."

Chap. 30. "An Act relating to the appointment of Stipendiary Magistrates."

Chap. 31. "An Act for granting certain sums of Money for the public service of the Province of British Columbia."

Chap. 32. "An Act relating to the Official Map of the City of Victoria."

Chap. 33. "An Act to incorporate the Victoria Transfer Company, Limited."

Chap. 34. "An Act amending the Law relative to the Qualification and Registration of Voters."

Chap. 35. "An Act relating to the construction of a Waggon Road through Eagle Pass."

Chap. 36. "An Act for the protection and relief of the Yale Fire Brigade."

Chap. 37. "An Act relating to the extension of Yates Street in the City of Victoria."

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th February,* 1884.

The Committee of the Privy Council have had before them a Report, herewith attached, dated 10th of January, 1884, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of British Columbia during the first Session of 1883, and Chaptered from 1 to 37 inclusively.

The Committee advise that the power of disallowance be not exercised with respect to any of the said Acts save Chapters 26 and 27, which were by Order in Council dated the 17th day of October, A. D. 1883, disallowed.

The Committee further advise that a Despatch, based upon this Minute, if approved, be forwarded by the Secretary of State to the Lieutenant-Governor of British Columbia calling attention to the observations of the Minister of Justice on several of the said Acts.

JOHN J. McGEE,
Clerk Privy Council.

BRITISH COLUMBIA, 47TH VICTORIA, 1884.

2ND SESSION—4TH PARLIAMENT.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 7th April, 1884.

To His Excellency the Governor General in Council:

The undersigned has had under consideration an Act passed during the last Session of the Legislature of British Columbia, No. 15, intituled: "An Act to prevent the immigration of Chinese."

The 2nd Section makes it unlawful for any Chinese to come into the Province of British Columbia, or any part thereof, and imposes a penalty upon those Chinamen who do so, and provides that they may be arrested without warrant.

By the 3rd Section it is provided that anyone who brings or assists in bringing into British Columbia, any Chinese, or who in any way assists any Chinese in coming into British Columbia, is liable to a penalty of $200, and in default of payment to imprisonment for six months for each Chinaman so brought in or assisted.

By the 4th Section it is provided that offenders against the 3rd Section may be arrested without warrant by any Constable and brought before any Justice of the Peace to be dealt with according to law.

The preamble to the Act is as follows:—

"Whereas by the British North America Act, 1867, Section 95, it is enacted as follows:—

"In each Province the Legislature may make laws in relation to Agriculture in the Province and to Immigration into the Province, and it is hereby declared that the Parliament of Canada may, from time to time, make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into any or all of the Provinces; and any law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

"And whereas it is expedient to prevent the immigration of Chinese into British Columbia."

Having reference to the condition of Canada at the time of the Union of the Provinces the undersigned is of opinion that the authority given by the 95th Section of the British North America Act is an authority to regulate and promote immigration into the Province and not an authority to prohibit immigration.

A law which prevents the people of any country from coming into a Province cannot be said to be of a local or private nature.

On the contrary, it is one involving Dominion and possibly Imperial interests. But without coming at present to a definite conclusion as to whether the Act in question is one within the Legislative authority of Parliament or of the Legislature, the undersigned is clearly of opinion that it is an Act that ought not to be put into operation without due consideration, and without correspondence with the Imperial authorities.

If the Legislature had followed the same course with respect to this Act that it followed with respect to Act number fourteen, intituled: "An Act to regulate the Chinese population of British Columbia," and provided that it should not come into

force until one year after its passage, time would have been given for necessary consideration and correspondence, but by the 8th Section of the Act under consideration it came into operation on the 31st March last.

As the Act clearly discriminates against the Chinese, and as it imposes great penalties upon Chinamen coming into British Columbia and upon those who assist Chinamen to come into British Columbia, and as at least great doubts must be entertained as to the authority of the Legislature to pass the Act, the undersigned respectfully recommends that it be disallowed.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 8th April,* 1884.

The Committee of the Privy Council have had under consideration a Report, hereunto annexed, dated 7th April, 1884, from the Minister of Justice, in which it is recommended, for the reason therein set forth, that the following Act, passed by the Legislature of British Columbia, 47 Victoria, 1884, viz., Chapter 15, "An Act to prevent the immigration of Chinese," should be disallowed.

The Committee advise that the said Act be disallowed accordingly and that a copy of this Report be forwarded to the Lieutenant-Governor of British Columbia for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Tuesday, 8th day of April, 1884.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 18th day of February, 1884, pass the Act, No. 15, intituled: "An Act to prevent the immigration of Chinese;"

And, whereas the said Act has been laid before the Governor General in Council, together with a Report from the Minister of Justice recommending that the said Act should be disallowed;

His Excellency the Governor General has, thereupon, this day, been pleased, by and with the advice of the Queen's Privy Council of Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof, the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,
Clerk Privy Council.

I, Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, Governor General of Canada, do hereby certify that the undermentioned Act, passed by the Legislature of the Province of British Columbia, on the 18th day of February, A. D. 1884, intituled: "An Act to prevent the Immigration of Chinese," was received by me on the 7th day of March, A.D. 1884.

Given under my hand and seal this 8th day of April, A.D. 1884.

LANSDOWNE.

The Earl of Derby to the Governor General.

DOWNING STREET, 31st May, 1884.

MY LORD,—With reference to your Lordship's Despatch, No. 69, of the 15th ultimo, enclosing a copy of a Report of a Committee of the Privy Council upon an Act for preventing the Immigration of Chinese, recently passed by the Legislature of British Columbia, in accordance with which Report you had disallowed the Act, I have the honor to inform you that Her Majesty has not been advised to disallow Acts passed in the Australian Colonies restricting by very severe provisions the immigration or introduction of Chineese.

I shall be happy to transmit for your Lordship's information copies of some of these Acts, if they are not already in the Parliamentary Library at Ottawa.

Her Majesty's Government have not held that the relations of this Country with China require them to interfere with the Australian Legislation, on International grounds, and it has been treated as a matter of internal administration, with which a responsible Colonial Government is competent to deal. When, therefore, the Dominion Ministers advise your Lordship with regard to these Acts, you may understand that the question is not held to involve Imperial interests, and that you should deal with it as a Canadian question only.

I do not understand that your Lordship invites me to state whether Chinese immigration into British Columbia is placed by the British North America Act of 1867, under the control of the Dominion or of the Provincial Legislature, but I may say that is a point on which I am not prepared to give an opinion.

I have, &c.,

DERBY.

Governor General

The Most Honorable the Marquis of Lansdowne, G.C.M.G.

&c., &c., &c.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd March, 1885.

To His Excellency the Governor General in Council:

The undersigned begs leave to report upon the Acts passed by the Legislative Assembly of the Province of British Columbia, in the Session commencing on the 3rd of December, 1883, and ending on the 18th of February, 1884.

Having carefully considered the Acts, of which the Titles and Chapters are given in the Schedule hereto attached, the undersigned, respectfully, recommends that they be left to their operation.

Chapter 3, intituled: "An Act to prevent the immigration of Chinese," was disallowed by Order in Council on the 8th of April last. The Right Honorable

the Principal Secretary of State for the Colonies referring to the disallowance of this Act, in a Despatch to His Excellency, under date of the 31st of May last, states that Her Majesty has not been advised to disallow Acts passed in the Australian Colonies restricting by very severe provisions the immigration or introduction of Chinese and that Her Majesty's Government have not held that the relations of the United Kingdom with China required them to interfere with the Australian legislation on international grounds, and it has been treated as a matter of internal administration with which a responsible Colonial Government is competent to deal.

Chapter 2, intituled: "An Act to prevent Chinese from acquiring Crown lands," makes it unlawful for the Commissioner of Crown Lands, or any other person, to issue a pre-emption record of any Crown Land, or sell any portion thereof to any Chinese, or to grant authority under the "Land Act, 1884" (B.C.), to any Chinese to record or divert any water from the natural channel of any stream, lake or river in the Province.

Chapter 4. "An Act to regulate the Chinese population of British Columbia," imposes an annual tax of ten dollars on every Chinese over the age of 14 years, and makes other stringent and special provisions for the regulation of the Chinese population of the Province.

No question, in the opinion of the undersigned arises, under Chapter 2, with respect to the relative authority of the Parliament of Canada and the Legislature of British Columbia. A question may arise as to whether or not the Acts applying only to a portion and not to the whole of the population of the Province are constitutional, but this is a question which, if it arises, can be most conveniently dealt with by the Courts. A further question will probably be raised as to whether or not the Legislature, in the exercise of its powers to impose a direct tax, can so impose it as to limit or restrict that intercourse among people of different nations, which constitutes one of the elements of commerce, but that question is also one which, in the opinion of the undersigned, can best be considered and dealt with by a judicial tribunal, as happened in the case of an Act of the Legislature of British Columbia, passed in 1878, for the better collection of taxes from Chinese, which was held unconstitutional, and the collection of taxes thereunder restrained by the Courts, and for these reasons the undersigned recommends that the Acts be left to their operation.

Chapter 10. "An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal."

This Act does not contain the provisions respecting the appointment and jurisdiction of the Gold Commissioners, which were contained in 45 Vic., Chap. 8, and on account of which that Act was disallowed, and there is, therefore, in the opinion of the undersigned, no objection to leaving the Act to its operation.

If this Report is approved the undersigned respectfully recommends that the Lieutenant-Governor of British Columbia be informed that it is the intention of His Excellency to leave to their operation the Acts mentioned in the Schedule thereto, and also the Acts Chaptered 2, 4 and 10 hereinbefore referred to.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Chap. 1. An Act to amend the "Local Administration of Justice Act, 1881," so as to provide for the more frequent sitting of the Court of Appeal.

Chap. 5. An Act to amend the "Coroners Amendment Act, 1883."

Chap. 6. An Act respecting the transfer of pending business in the County Court of British Columbia.

Chap. 7. An Act to amend an Act respecting Dogs.
Chap. 8. An Act relating to the Law of Evidence.
Chap. 9. An Act respecting the prevention of Fires in unincorporated Towns and Villages.
Chap. 11. An Act to prevent the desecration of Graveyards.
Chap. 12. An Act respecting the Storage of Gunpowder and other Explosive Substances.
Chap. 13. An Act relating to the Indemnity to Members of the Legislative Assembly.
Chap. 14. An Act relating to the Inland Railway, the Graving Dock and Railway Lands of the Province.
Chap. 15. An Act to amend the "Juror's Act, 1883."
Chap 16. An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia.
Chap 17. An Act to amend the "Land Registry Ordinance, 1870."
Chap. 18. An Act relating to the Legal Profession.
Chap. 19. An Act to authorize the borrowing of $250,000 upon the General Credit of the Province.
Chap. 20. An Act respecting the Union of certain Methodist Churches in Canada.
Chap. 21. An Act to amend the "Municipality Act, 1881."
Chap. 22. An Act to amend an Act of last Session, No. 21, intituled: "An Act to amend the Municipality Act, 1881."
Chap. 23. An Act to amend the "Notaries Public Appointment Act, 1872."
Chap. 24. An Act to amend the "Columbia and Kootenay Railway and Transportation Company Act, 1883."
Chap. 25. An Act to amend the "New Westminster and Port Moody Railway Company Act, 1882."
Chap. 26. An Act to authorize the City of New Westminster to sell certain Lands.
Chap. 27. An Act to amend the "Public School Act, 1879."
Chap. 28. An Act to amend the "Sleigh Regulation Act, 1883."
Chap. 29. An Act to amend the "Statutes and Journals Act, 1879."
Chap. 30. An Act for granting certain sums of money for the Public Service of the Province of British Columbia.
Chap. 31. An Act to incorporate the New Westminster and Port Moody Telephone Company, Limited.
Chap. 32. An Act relating to the cutting of Timber upon the Provincial Lands and for the purpose of deriving a Revenue therefrom.
Chap. 33. An Act to amend the "Cariboo Waggon Road Tolls Act, 1876."
Chap. 34. An Act to amend the Qualification and Registration of Voters Acts.
Chap. 35. An Act to encourage the manufacture of Woollen Goods in British Columbia.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 29th March,* 1885.

The Committee of the Privy Council have had before them a Report, herewith attached, dated 2nd March, 1885, from the Minister of Justice, with respect to the Acts passed by the Legislative Assembly of the Province of British Columbia, in the Session commencing on the 3rd December, 1883, and ending on the 18th of February, 1884, numbered 1 to 35 inclusively.

The Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, and they further advise that a Despatch based on this Minute, if approved, be forwarded to the Lieutenant-Governor, calling his attention to the observations of the Minister of Justice on several of the said Acts.

JOHN J. McGEE,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 37TH VICTORIA, 1874.

2ND SESSION—26TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 25th March, 1874.

A Despatch of the Secretary of State for the Colonies to the Governor General is submitted, expressing, in effect, the assent of the Crown to certain Statutes. This Despatch should be communicated to the Lieutenant-Governor of Prince Edward Island.

But reference is made to a Bill which is spoken of as a reserved Bill, Chapter 30, which is an Act to vest a certain portion, forty acres, of Government House Farm, in the City of Charlottetown, for the purpose of a Park and Pleasure Ground for the use of the Public.

The object of this reference by the Colonial Secretary is on account of the Act having been passed on the 14th June, 1873, whereas the addresses of Legislative Council and Assembly of Prince Edward Island, expressing their desire to enter into the Dominion, are dated 28th May, 1873, and the transfer of any public property after that date would clearly be incorrect, as regards its subsequently becoming a Province of the Dominion.

Equitably, therefore, the property in question, being part of the Government House Farm, and thus an adjunct of Public Buildings, and, as such, coming within the designation of Section 8 of the 3rd Schedule of the British North America Act, 1867, was part of the property of the Dominion, and only required an Order in Council bringing Prince Edward Island into the Confederation to vest it legally in the Crown for the Government of Canada. It is true that it has been the custom for the Government of Canada to make over, by Order in Council, to the Province such portion of the public property as they thought fit and appropriate for the use of the Provincial Legislatures and Government, but it appears doubtful whether the Legislature of Prince Edward Island could properly pass an Act in respect to property which equitably had already become that of the Dominion, and could thus dispose of it as they have done.

The question, however, submitted by the Colonial Secretary, is as to whether the Government of Canada think that Her Majesty may be properly advised to assent to it.

With the remarks hereinbefore made the undersigned has the honor to submit he matter for consideration of Council.

A. A. DORION,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 3rd April,* 1874.

The Committee have had under consideration a Despatch No. 382, dated 29th January, 1874, from the Right Honorable the Secretary of State for the Colonies,

stating that Her Majesty will not be advised to exercise her power of disallowance with respect to certain Acts of the Legislature of Prince Edward Island, therein mentioned, which were passed before the admission of that colony into the Union; also requesting that Your Excellency would bring under the consideration of the Council the reserved Bill, Cap. 30, which his Lordship states was only passed shortly before confederation of Prince Edward Island with Canada, and report to him whether Your Excellency's advisers are of opinion that Her Majesty may be properly advised to assent to it.

The Honorable the Minister of Justice, to whom said Despatch, with enclosure, was referred, reports with reference to the Bill, which is spoken of as a reserved Bill, Chap. 30,—which is an Act to vest a certain portion, forty acres, of Government House farm, in the City of Charlottetown, for the purpose of a park and pleasure grounds for the use of the public; that the object of this reference by the Colonial Secretary is on account of the Act having been passed on the 14th June, 1873, whereas the addresses of the Legislative Council and Assembly of Prince Edward Island, expressing their desire to enter into the Dominion, are dated 28th May, 1873, and the transfer of any public property after that date would clearly be incorrect as regards its subsequently becoming a Province of the Dominion. That equitably, therefore, the property being part of the Government House farm, and thus an adjunct of public buildings, and, as such, coming within the designation of Section 8 of 3rd Schedule of the British North America Act of 1867, was part of the property of the Dominion, and only required an Order in Council briging Prince Edward Island into the Confederation to vest it legally in the Crown for the Government of Canada. That it is true that it has been the custom of the Government of Canada to make over, by Order in Council, to the Province, such portion of the public property as they thought fit and appropriate, for the use of the Provincial Legislatures and Government, but that it appears doubtful whether the Legislature of Prince Edward Island could properly pass an Act in respect to property which equitably had already become that of the Dominion, and could thus dispose of it as they have done; that the point, however raised by the Colonial Secretary is as to whether the Government of Canada think that Her Majesty may be properly advised to assent to it, which question he, the Minister of Justice, submits for the consideration of Your Excellency in Council.

The Committee are of opinion, for the reasons submitted in the Memorandum, that Her Majesty should be humbly requested not to assent to the said Bill.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

The Secretary of State for the Provinces to the Governor General.

DOWNING STREET, 28th April, 1874.

MY LORD,—I have the honor to acknowledge the receipt of your Despatch, No. 94, of the 8th instant, enclosing a copy of an approved Report of a Committee of the Privy Council, recommending, for the reasons stated, that Her Majesty should not be advised to assent to the Bill passed in June, 1873, by the Legislature of Prince Edward Island, but reserved by the late Lieutenant-Governor, intituled: "An Act to vest a certain portion of Government House Farm in the City of Charlottetown for certain purposes therein mentioned."

In accordance with the recommendation of your Government, I shall not advise the Queen to assent to this Act, which will not, therefore, come into operation. I

request that you will so inform the Lieutenant-Governor of Prince Edward Island, and that you will forward to him a copy of the Report of the Privy Council.

I have, &c.,

CARNARVON.

Governor General, the Right Honourable
The Earl of Dufferin, K.P., K.C.B., &c., &c.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd December, 1874.

The undersigned has the honor to report that at the Session of the Legislature of Prince Edward Island, held in the early part of this present year, a Bill was passed by both Houses, intituled: "The Land Purchase Act, 1874," which was reserved by the Lieutenant-Governor for the signification of Your Excellency's pleasure.

Its objects are foreshadowed in the recitals thereto, which are:—

First: "That the leasehold tenures of this Island have long been a subject of contemplation, and have proved seriously detrimental to the prosperity of this Province and to the contentment and happiness of its people."

Secondly: "That it appears from correspondence which has recently taken place between the Government of this Island and certain proprietors, that there is no reasonable hope of the latter voluntarily selling their Township lands to the Government at moderate prices.

Thirdly: "That it is very desirable to convert the leasehold tenures into freehold estates on terms just and equitable to the tenants as well as to the proprietors."

It provides that the Colonial Secretary shall notify any Proprietor owning five hundred acres of land, or upwards, that the Government of the Province intend to purchase his land under the provisions of the Act, after which the Government and Proprietor shall each nominate a Commissioner to award the amount of money, and they are jointly to nominate a third Commissioner.

The Act provides the necessary machinery for carrying such arbitration into effect, and provides further, as follows:—

Section 23.—"After hearing the evidence adduced before them, the Commissioners, or any two of them, shall award the sum due to such proprietors as compensation or price, to which he shall be entitled by reason of his being divested of his land and all interests therein and thereto."

Section 24.—"The fact of the purchase or sale of the lands of any proprietors being compulsory, and not voluntary, shall not entitle any such proprietor to any compensation by reason of such compulsory purchase or sale, the object of this Act being to pay every proprietor a fair indemnity or equivalent for the value of his interest, and no more; and by the 25th Section are regulated the circumstances which are to be taken into consideration by the Commissioners in estimating the amount of compensation to be paid to the proprietors.

Under the 29th Section the Lieutenant-Governor in Council is to nominate a public trustee, who, when the purchase money of the property shall have been paid into the Treasury, is to execute a conveyance of the estate of the proprietor to the Commissioner of Public Lands, which shall thereby vest in the Commissioner of Public Lands an absolute and indefeasible estate of fee simple, free from all incumbrances of every description, and shall be held and disposed of by him as public lands, and shall also vest in the Commissioner of Public Lands all arrears of rent due upon the said lands.

It further provides:

Section 34.—"When the full sum for any lands shall have been paid into the Treasury, and the conveyance executed by the Public Trustee to the Commissioner

of Public Lands, the Government shall be absolutely exonerated from all liability to any person or persons whomsoever, who may claim estate so conveyed as aforesaid, or any interest therein, except as is mentioned in the next section."

Section 44.—"After the passing of this Act, no action at law shall be maintained by any proprietor for the recovery of more than the current and subsequent years' rent, and in case any such action is brought against any such tenant by any proprietor, such tenant may plead this Act in bar of such action, nor shall any execution issue on any judgment recovered or to be recovered for rent by any proprietor against any tenant in this Island, excepting the current and subsequent accruing years' rent, and in case any such execution is issued the Supreme Court or a Judge thereof shall, on application, stay any such execution until the award of the said Commissioners shall be made."

2. In transmitting this reserved Bill the Lieutenant-Governor forwards therewith certain documents.

The reasons which induced the Lieutenant-Governor to reserve the Bill are given by him as follows:—

"The Act in question, affecting private rights, by enforcing a compulsory sale by proprietors of five hundred acres of land, or upwards, at prices to be determined under a system of arbitration, to which they are thereby compelled to be parties, I deemed it to be my duty to reserve it for the consideration of His Excellency the Governor General.

"For upwards of half a century 'The Land Question,' so called, has agitated the minds of the people of this Province, and repeated attempts have been, from time to time, made by the Local Legislature to get rid of the leasehold system prevalent here, and the aid of the Imperial Government has been frequently invoked for the purpose, by endeavoring to obtain its sanction to the establishment of a Court of Escheat, on the ground of the non-fulfilment by the Grantees of the conditions of their grants from the Crown, but to which Her Majesty's Government invariably refused to accede.

"In 1860 three Commissioners were appointed to enquire into and adjust 'the differences between landlord and tenant.' The then proprietors, or a major part of them, were assenting parties to this Commission. One Commissioner was selected by the Secretary of State for the Colonies; a second by the proprietors, and a third by the Local Legislature. Their report and award, characterized by the late Duke of Newcastle, then Secretary of State for the Colonies, as 'able and impartial,' was set aside because the Commissioners thereby devolved the duty of assigning the value of township lands, which they should have performed themselves, upon other parties not recognized by the Commission, A copy of the Commissioners' Report and Award accompanies the reasons of the Attorney-General, marked No. 1, and to this I beg to refer His Excellency the Governor General, affording, as it does, a complete history of the land question from the year 1767 to the date of the Report.

"The desire finally to extinguish the leasehold system so far as relates to lands still in the hands of the proprietors, continues unabated; in fact it has received a fresh impetus since Confederation, in view of the sum of eight hundred thousand dollars, appropriated by the Dominion Government for the purchase of the proprietory rights in this Province."

The report of Mr. Attorney-General Brecken briefly referring to the same matters as mentioned in the Despatch of the Lieutenant-Governor, quotes particularly from the Despatch of the 13th March, 1869, from the then Secretary of State for the Colonies to the effect that, if Confederation of Prince Edward Island with Canada were to ensue, the land question should be left as far as possible for the decision of those who, under the altered circumstances of the Colony, would have to carry into execution any measures connected with it.

The Attorney-General further adds that the Local Government is led to believe that there is no reasonable prospect of some of the owners of township lands voluntarily disposing of their estates at moderate prices, and that others of them are not at all desirous of permitting their tenants to become freeholders.

Impelled by the peculiar circumstances of the case, and strengthened by the Despatch of Earl Granville above alluded to, the Legislature had passed the Act with the hope that it might be the means of settling forever this long agitated question on terms just and liberal, as well to the proprietors as to the tenants.

The Lieutenant-Governor also transmits copies of correspondence between the Local Government and certain proprietors of lands and their agents on this subject.

The views of the different proprietors, as to parting with the property vary, but the tenor shows generally an indisposition on the part of the proprietors to dispose of their properties, whilst in some instances, they ask that a definite offer should be made to them.

There is also a statement submitted showing the names of the proprietors, their residences and number of acres owned by each, and the quantity of land owned by small freeholders, the former being 381,720 acres, and the latter 222,000 acres.

There is also a statement showing the quantity of land already purchased under the authority of a previous Loan Act, being in the aggregate 457,270 acres, at an aggregate amount of $517,951; and a further purchase under an Act passed in 28th Vic., of nearly 7,000 acres. These purchases, however, appear to have been all made with the assent of the proprietors.

With the Lieutenant-Governor's Despatch are certain memorials of proprietors, praying that the Act may not be allowed.

These have been since supplemented by memorials furnished either to the Secretary of State for the Colonies and transmitted by him, or direct to Your Excellency.

3. The documents transmitted by Mr. Attorney-General Brecken show the transmission by the Duke of Newcastle in February, 1862, to the Lieutenant-Governor, of a copy of a Report of the Commissioners appointed to enquire into the land tenures of Prince Edward Island, together with the copy of the Report which embraces a very full consideration of the whole circumstances, the same bearing date, 18th July, 1861.

As before mentioned, however, nothing was done upon this Report.

In 1864, a deputation from the Government of Prince Edward Island proceeded to England, when certain correspondence ensued between the Duke of Newcastle and themselves, and it appears that Sir Samuel Cunard proposed terms and submitted a draft Bill which he thought would bear out the matter.

These, however, equally led to the absence of any result.

In 1868, the matter was again brought forward by the Lieutenant-Governor, submitting a Minute of the Executive Council, and praying the sanction of the Secretary of State to the measure which might obtain a settlement of this question; in reply to which the Duke of Buckingham and Chandos stated that he "fully recognized the propriety of the course which the Executive Council have taken in seeking to obtain the sanction of the Secretary of State, before introducing a measure, which would naturally tend to raise, in the minds of the people, expectations with which, in the result, it might be deemed inexpedient to comply."

"I make the recognition the more fully, because, after a careful consideration of the whole case, and of the grounds now put forward by the Executive Council in support of a law for the compulsory sale of the land of those proprietors, who were not parties to the Act of 1864, I am not prepared to advise Her Majesty to sanction such a measure.

"The views of former Secretaries of State upon the subject, and the grounds upon which such views were based, have been so clearly explained in prior correspondence, that it appears to me unnecessary to do more now than to state that I find no special reason assigned on the Minute of Council, which, in my opinion, would justify, on the ground of public policy, the proposed direct appropriation of private property."

In February, 1869, correspondence was renewed between the Lieutenant-Governor of Prince Edward Island and the Imperial Government, which led to the remarks of Lord Granville previously quoted, to the effect that decision as to the land question should be left to those who, under the altered circumstances of the

Colony by Confederation, if it were carried out, would have to carry into execution any measures connected with it.

4. Several petitions are presented against the allowance of this Bill; some, as above stated, having been sent to the Secretary of State for the Colonies and others direct to Your Excellency.

In transmitting one presented in England, Lord Carvarnon requests the careful consideration of your Excellency's Ministers in respect to it.

They submit that the proposed Act is subversive of the rights of property and that it will prove most ruinous to proprietors in this Colony and a dangerous precedent to establish as a mode of allaying popular agitation. After entering upon details of the past, they submit that the Act is without a precedent in the history of legislation, and that even if it were called for, as constitutional as respects its objects, the mode of procedure adopted by it would prove most ruinous and harassing to the owners of property in that Island. They allege that the Government, which is practically irresponsible, as it cannot be sued in a Court of Law, might hold this Act over the unfortunate proprietor who cannot force on the proceedings when once commenced, nor obtain compensation or costs when such proceedings have been abandoned; and they dispute the recitals to the Act and pray for disallowance of the same.

The other petitions allege various reasons in respect to which they, as proprietors and British subjects, would be much injured and damnified if the Act passed.

The allegations in these petitions are very forcibly urged, and represent features which cannot but be regarded as contrary to the principles of Legislation in respect to private rights and property.

The undersigned is of opinion that the Act is objectionable, in that it does not provide for an impartial arbitration, in which the proprietors would have a representation, for arriving at a decision on the nature of the rights and value of the property involved, and also for securing a speedy determination and settlement of the matters in dispute.

Under all the circumstances of the case, the undersigned has the honor to recommend that the Bill so reserved, intituled: "The Land Purchase Act, 1874," do not receive the assent of Your Excellency in Council.

H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th December,* 1877.

The Committee of Council have had under consideration the annexed Report, dated 23rd December, 1874, from the Honorable the Minister of Justice, to whom was referred a Bill passed by the Legislature of the Province of Prince Edward Island at the Session thereof held in the early part of this present year, and intituled: "The Land Purchase Act, 1874," which Bill was reserved for the signification of Your Excellency's pleasure thereon.

The Committee, under the circumstances of the case as set forth in the said Report, submit their concurrence in the recommendation of the Minister of Justice, and advise that the Bill so reserved do not receive the assent of Your Excellency in Council.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd January, 1875.

Upon reference of a Despatch from the Lieutenant-Governor of Prince Edward Island, and the Acts thereunder transmitted by him authenticated under the Provincial Seal, and being the Acts of the General Assembly of that Province enacted in the year 1874, the undersigned has the honor to report:—

That the same appear to him unobjectionable, and he recommends, therefore, that the same respectively should be left to their operation.

Chapter 2.—"An Act for appropriating certain moneys therein mentioned for the service of the year of Our Lord one thousand eight hundred and seventy-four."

Chapter 4.—"An Act to amend the Absent Debtor Act, 1873."

Chapter 5.—"An Act to prevent the running at large of Horses, Cattle and Sheep in certain School Districts in Queen's County, in this Island."

Chapter 6.—"An Act to amend an Act relating to Physicians and Surgeons."

Chapter 7.—"An Act to amend the Common Law Procedure Act, 1873."

Chapter 9.—"An Act to repeal Section Twelve of an Act intituled: 'An Act to amend the Law of Inheritance, and to regulate the distribution of the Estates of Intestates.'"

Chapter 10.—"An Act respecting Official Securities."

Chapter 11.—"An Act to repeal Section Third of the Act Fiftieth George the Third, Chapter Three."

Chapter 12.—"An Act to facilitate the proof of Telegraph Messages, Letters and other written instruments."

Chapter 14.—"An Act to continue certain Acts therein mentioned."

Chapter 15.—"An Act to extend the authority of the Police Constables of Charlottetown."

Chapter 16.—"An Act to amend an Act relating to the settlement and distribution of the Estates of Intestates, and to regulate the practice of the Surrogate Court, and to repeal certain sections of certain Acts therein mentioned."

Chapter 17.—"An Act to further amend the Act of the Twenty-first Victoria, Chapter Seven."

Chapter 18.—"An Act to incorporate the Charlottetown Burial Ground Company."

Chapter 19.—"An Act to amend an Act for the better Government of certain rising Towns and Villages in this Island."

Chapter 20.—"An Act further to amend the Act of the General Assembly, Sixteenth Victoria, Chapter nineteen, intituled: 'An Act to incorporate the Charlottetown Gas Light Company.'"

Chapter 22.—"An Act to incorporate the Minister and Trustees of the Presbyterian Church of Dundas."

Chapter 23.—"An Act to incorporate the Tignish Lime Company."

H. BERNARD,
Deputy Minister of Justice.

I concur.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 15*th January,* 1875.

On the recommendation of the Honorable the Minister of Justice, to whom was referred the Despatch from the Lieutenant-Governor of Prince Edward Island transmitting the Acts of the General Assembly of that Province, enacted in the

Session held in the year 1874, the Committee advise that the following Chapters of the said Acts, being unobjectionable, be left to their operation, that is to say, Chapters 2, 4, 5, 6, 7, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 22 and 23.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd January, 1875.

Upon the Despatch of the Lieutenant-Governor of Prince Edward Island, of the 5th September, 1874, transmitting certain Acts of the General Assembly of that Province, enacted in the Session held in the year 1874, the undersigned has the honor to report as follows:—

Chapter 1. "An Act to amend the Act passed in the thirty-sixth year of the Reign of Her Majesty, Queen Victoria, intituled: 'An Act to establish County Courts of Judicature in this Island.'"

Section 29 authorizes any County Court Judge to commit any person guilty of perjury before him or other officers of the Court, to direct such person to be prosecuted for perjury, and to commit him or to take bail for his appearance.

The undersigned is of opinion that this is a matter of Criminal Law and procedure, and as such not within the competence of the Legislature of Prince Edward Island. He suggests, therefore, that the Legislature of the Province should repeal the same.

A clause of similar purport is to be found in the Statutes of Canada, 32 and 33 Vic., Chap. 23, Sec. 6, which, when the Criminal Laws of Canada are made applicable to that Province, will answer the purpose intended by the 24th Section above mentioned and recommended to be repealed.

Chapter 8. "An Act to consolidate and amend the Laws enabling the Supreme Court of Judicature to order the examination of witnesses upon interrogatories and otherwise."

Section 5 provides for the taking of examination upon oath of witnesses in matters of the Supreme Court of Judicature, but it proceeds further and enacts that if false evidence should be wilfully and corruptly given every such person so offending shall be deemed guilty of perjury, and may be indicted as therein mentioned.

This section, in the opinion of the undersigned, partakes of the nature of Criminal Law and procedure, and is therefore not within the legislative competence of the Legislature of that Province.

The undersigned, therefore, recommends that the Lieutenant-Governor of Prince Edward Island should be invited to repeal the same. A provision to the same effect is made by the Statute of Canada, 32 and 33 Victoria, Chapter 23, which, when made applicable to Prince Edward Island, will attain the object desired by this clause.

Chap. 13. "An Act to incorporate the Prince Edward Island Chamber of Commerce."

This Act purports to establish an Incorporated Company "The Chamber of Commerce in Prince Edward Island," the objects of the same as defined by the second Clause, are for such purposes only as may be calculated to promote and extend the lawful Trade and Commerce of Prince Edward Island.

The question of Incorporation of a Company for such purpose was under the consideration of the Government in 1868, when the propriety of Legislation of that Province in a similar manner was doubted, and since that time it has been generally conceded that as the regulation of Trade and Commerce is expressly committed to the Parliament of the Dominion of Canada by the British North America Act, 1867, it is not within the competency of a Local Legislature to pass such a measure.

A provision has been made generally for the incorporation of various Boards of Trade in the Dominion by the Act of 1874, 37 Victoria, Chapter 51, and that an Act being applicable to Prince Edward Island will enable the mercantile community of Prince Edward Island to obtain the incorporation desired.

The undersigned recommends, therefore, that the Government of Prince Edward Island should be invited to repeal this Act.

It may also be mentioned that Section 22 constitutes the crime of perjury.

For the reasons given in a similar case, above, the undersigned is of opinion that being Criminal Law it is not within the competence of a Local Legislature. This point, however, is merged in the broader one above stated, upon which the repeal of this Act is suggested.

Chapter 21. "An Act for amending the Law relating to Controverted Elections of Members to serve in the General Assembly of Prince Edward Island, and for providing more effectually for the prevention of corrupt practices at elections."

Section 36 provides as to the subpœnaing and swearing of witnesses, and adds that they shall be subject to the same penalties for perjury.

This clause is taken from the Controverted Elections Act of Canada, 1874, 37th Vic., Chap. 10, Sec. 49, the provision in respect to perjury being within the competence of Parliament.

It is suggested, however, that the enactment which thus provides penalties as to perjury is Criminal Law, and therefore not within the Legislative competence of a Local Legislature.

The undersigned suggests, therefore, the propriety of the words "and shall be subject to the same penalties for perjury" being repealed.

H. BERNARD,
Deputy Minister Justice.

I concur.

T. FOURNIER,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 11*th January*, 1875.

The Committee of Council have had under consideration the Report hereunto annexed from the Honorable Minister of Justice, having reference to certain enactments contained in the Chapters 1, 8, 13 and 21 of the Acts passed by the General Assembly of the Province of Prince Edward Island, in the Session held in the year 1874; and they respectfully submit their concurrence in the said Report, and advise that a copy of it and of the present Minute be transmitted to the Lieutenant-Governor of that Province.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 38TH VICTORIA, 1875.

3RD SESSION—26TH GENERAL ASSEMBLY.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

PROVINCE OF PRINCE EDWARD ISLAND,

GOVERNMENT HOUSE, 19th May, 1875.

SIR,—I have the honor to transmit in triplicate two Acts passed in the late Session of the General Assembly, Chaptered 5 and 6 respectively, and noted in the margin, which were assented to by me, under the usual opinion from the Attorney-General, that I might constitutionally do so.

Chap. 5: "An Act to appoint a Stipendiary Magistrate for the City of Charlottetown."

Chap. 6: "An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown."

Attorney-General's reasons for passing these Acts.

These Acts, I am informed, were introduced and passed rather hurriedly, just previous to the close of the Session, and it now appears some doubts have arisen whether the subjects dealt with by them, are within the constitutional jurisdiction of the Local Legislature under the terms of the Act of Confederation so called.

I also transmit the Attorney-General's reasons for their passing, and explanatory of them, from which it will be seen, under the circumstances stated by him, how necessary some such measures are.

I beg respectfully to press upon the attention of the Government the necessity of as early a decision as possible upon the Acts in question, one adverse to the right of the Local Legislature, to deal with the subjects involved in them, must inevitably lead to most disastrous and ruinous consequences as. regards the affairs and future well-being of the Municipality of the City of Charlottetown.

I have, &c.,

R HODGSON,

Lieutenant-Governor.

Hon. the Secretary of State,

Reasons of Mr. Attorney-General Brecken.

CHARLOTTETOWN, P.E.I., 19th May, 1875.

"Chap. 5, An Act to appoint a Stipendiary Magistrate for the City of Charlottetown."

By a late decision of the Supreme Court of this Province, the Police Court of the City of Charlottetown was held to be incompetent to try a certain class of offences, arising under the By-laws of the Mayor and Common Council of such City.

The Police Court being, in fact, composed of the same persons who are under Act, as the Mayor and Common Councillors of said City, it was deemed illegal and unconstitutional thus for persons to be Judges in their own cause.

To obviate this difficulty this Act was passed. It, in effect, merely transfers the jurisdiction formerly held by the Mayor's Court and the Police Court of this City to a Stipendiary Magistrate, giving him only the same powers and authorities as were formerly exercised by the said two several Courts.

These Courts, prior to this Act exercised all the ordinary powers of a Justice of the Peace, besides having a summary jurisdiction in assaults and batteries, petty larcencies, trespasses and breaches of the peace within the limits of the City, with power to punish by fine not exceeding ten pounds Island currency, equal to $32.44 Dominion currency, or by imprisonment not exceeding thirty days in some cases, and in others not exceeding six months.

The salary of the Magistrate is, by this Act, made payable, by the Mayor and Council, out of the funds of the City.

This Act is forwarded at this time, as it is greatly to be desired that it should go into operation at once, if not beyond the powers of our Local Legislature.

Cap. 6.—An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court of Charlottetown.

This Act was passed for the purpose of substituting a Stipendiary Magistrate for the Police Court. It deprives the Stipendiary Magistrate of the power of punishing persons convicted of larcencies by fines, which hath hitherto been the law. Experience has proved that it is desirable to amend the law in this respect.

This Act is consequent on the Act Cap. 5, which accompanies it.

FREDERICK BRECKEN,

Attorney-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th May, 1875.

The undersigned has the honor to report: That at the last Session of the Legislature of Prince Edward Island a Bill was passed by both Houses, intituled: "The Land Purchase Act, 1874," which has been reserved by the Lieutenant-Governor for the signification of the pleasure of Your Excellency in Council.

The objects in this Bill are the same as those contemplated in the Bill passed during the previous Session, intituled: "The Land Purchase Act, 1874," which was also reserved for the signification of Your Excellency's pleasure, which was not assented to by Your Excellency, for reasons contained in a Report of the Minister of Justice of the 23rd December, 1874. By referring to this Report, it will be observed that the reason adduced for withholding Your Excellency's assent, was chiefly that no provision was made for an impartial arbitration, or in which the proprietors would have a representation, in arriving at the value of their property, neither did it seem to provide for a speedy determination of the matters in dispute between the parties interested.

In the Bill which is now referred, those objections have been removed, and a fair representation of the interests of all parties concerned has been provided for, and an impartial tribunal has been insured to each proprietor; the Bill providing for the appointment of three arbitrators, one to be named by the land proprietors, another to be named by the Lieutenant-Governor in Council, and the third by Your Excellency in Council.

The undersigned is of opinion, that the subject dealt with in the Bill is one coming within the competence of a Provincial Legislature, and inasmuch as the objectionable features of the previous Bill have been removed, the undersigned recommends that the reserved Bill, intituled: "The Land Purchase Act, 1875," receives the assent of Your Excellency in Council.

T. FOURNIER,

Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator in Council on the* 14th *June*, 1875.

The Committee of the Privy Council have had under consideration the Report hereunto annexed from the Honorable the Minister of Justice, in reference to an Act passed by the Legislature of the Province of Prince Edward Island, during the last Session thereof, intituled: "The Land Purchase Act, 1875," and they respectfully submit their concurrence in the said Report, and accordingly advise that the said Act receive the assent of Your Excellency in Council.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving Assent to the Act above mentioned.

GOVERNMENT HOUSE OTTAWA, TUESDAY, 15th day of June, 1875.

Present:

HIS EXCELLENCY THE ADMINISTRATOR IN COUNCIL.

Whereas, by an Act passed in the 31st year of Her Majesty's reign, intituled: "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for purposes connected therewith," it is, among other things, enacted, that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force unless and within until one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by proclamation, that it has received the assent of the Governor General in Council;

And, whereas, on the 27th day of April, 1875, the Lieutenant-Governor of the Province of Prince Edward Island reserved a certain Bill passed by the Legislative Council and Assembly of the said Province, intituled: "The Land Purchase Act, 1875," for the signification of the Governor General's pleasure thereon;

And, whereas, the said Bill so reserved as aforesaid has been laid before the Administrator of the Government in Council, and it is expedient that the said Bill should be assented to;

Now, therefore, the Administrator of the Government, in pursuance of the said Act, and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present order, by and with the advice of his Privy Council, declare his assent to the said Bill.

And the Secretary of State is to give the necessary directions herein accordingly.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

PROVINCE OF PRINCE EDWARD ISLAND,
GOVERNMENT HOUSE, 24th June, 1875.

SIR,—I have the honor to transmit, for the approval of His Excellency the Administrator of the Government, in triplicate, authenticated

Acts Nos. 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31.
Attorney-General's Report on said Acts.

under the Provincial Great Seal, twenty-nine Acts of the General Assembly, passed in its last Session, to which I gave my assent, together with the Attorney-General's Report thereon.

Lieutenant Governor's Despatch No. 29, of 14th May last.

Thirty-two Acts were passed in the Session alluded to, of that number the "Land Purchase Act, 1875," was not assented to by me, but reserved for the consideration of His Excellency the Governor General, and therefore is not numbered or noted in the Attorney-General's Report herewith, but was authenticated, reported upon, and forwarded with my Despatch No. 29, of the 14th ultimo, and Act No. 5, intituled: "An Act to appoint a Stipendiary Magistrate for the City of Charlottetown," and

Lieutenant-Governor's Despatch No. 30, of 19th May last.

Act No. 6, intituled: "An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown," were also authenticated, reported upon and forwarded with my Despatch, No. 30, of the 19th ultimo, and consequently are not amongst the Acts now transmitted.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 28th October, 1875.

Upon the Acts passed by the General Assembly of the Province of Prince Edward Island at its Session held in the 38th year of Her Majesty's reign, being the third Session of the twenty-sixth General Assembly convened in the said Island, the undersigned has the honor to report that the right of disallowance ought not to be exercised in respect of the following Acts, and he, therefore, recommends that they be left to their operation, Chapters 2 to 5 and 7 to 31 inclusive.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 23rd November,* 1875.

On a Report, dated 28th October, 1875, from the Hon. the Minister of Justice, upon the Acts passed by the General Assembly of the Province of Prince Edward Island, at its Session held in the 38th year of Her Majesty's reign, being the Third Session of the twenty-six General Assembly, convened in the said Island, stating that the right of disallowance ought not to be exercised in respect of the following Acts, and recommending that they be left to their operation.

Chapter 2.—An Act for the appointment of Clerks to Justices of the Peace, and to regulate proceedings laid before them.

Chapter 3.—An Act to incorporate the Citizens Skating Rink Company of Charlottetown.

Chapter 4.—An Act relating to Lunatics and to the custody of Lunatics.

Chapter 5.—An Act to appoint a Stipendiary Magistrate for the City of Charlottetown.

Chapter 7.—An Act to amend the Act of thirty-fifth and thirty-sixth Vic., Cap. 9, regulating the Registry of Deeds and Instruments relating to the title of lands.

Chapter 8.—An Act relating to amendments on appeals to the Supreme Court and the recognizance of appeal from the County Courts.

Chapter 7.—An Act to amend "An Act relating to the settlement and distribution of the estates of Intestates, and to regulate the practice of the Surrogate Court, and to repeal certain sections of Acts therein mentioned.

Chapter 10.—An Act to authorize the Surrogate and Judge of Probate to issue Commissions for the examination of witnesses out of the Province.

Chapter 11.—An Act to simplify the sale of lands under executions issued out of the Supreme Court.

Chapter 12.—An Act to amend an Act relating to bail and other practical parts of the law, and to consolidate, amend and reduce into one Act the laws heretofore passed on the same subject in this Island.

Chapter 13.—An Act to repeal certain sections, parts of sections and clauses in the Acts therein mentioned, referring to Criminal Law and Procedure.

Chapter 14.—An Act to increase the allowance of Petit Jurors.

Chapter 15.—An Act to amend an Act to establish County Courts of Judicature in this Island.

Chapter 16.—An Act relating to the Hillsborough Ferry.

Chapter 17.—An Act to prevent obstructions being placed on the Ice contiguous to Charlottetown Wharves.

Chapter 18.—An Act to enable the Sheriff of King's County to convey Prisoners over such parts of the Prince Edward Island Railway, from Souris to Georgetown, which runs through Queen's County, without being liable for an escape.

Chapter 19.—An Act for appropriating certain moneys therein mentioned for the services of the year of Our Lord one thousand eight hundred and seventy-five.

Chapter 20.—An Act to amend an Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island.

Chapter 21.—An Act to amend the Act to incorporate the Marine Insurance Company of Prince Edward Island.

Chapter 22.—An Act to incorporate the Georgetown Steam Navigation Company.

Chapter 23.—An Act to repeal an Act passed in the thirty-seventh year of the reign of Her present Majesty Queen Victoria, Chapter thirteen, intituled: "An Act to incorporate the Prince Edward Island Chamber of Commerce."

Chapter 24.—An Act to incorporate the Masonic Temple Company.

Chapter 25.—An Act for the incorporation of the Summerside Cemetery Company.

Chapter 26.—An Act respecting the Methodist Church of Canada.

Chapter 27.—An Act concerning the Congregations of Churches connected with the Church of Scotland and the Presbyterian Church of the Lower Provinces in this Province.

Chapter 28.—An Act to incorporate the Ministers and Trustees of the Zion Church Congregation in the City of Charlottetown, in connection with the Presbyterian Church of the Lower Provinces.

Chapter 29.—An Act to incorporate the Mount Stewart Hall Company.

Chapter 30.—An Act to incorporate the Trustees of the Presbyterian Church at Montague.

Chapter 31.—An Act to authorize Isaac Prescott Knight to take the additional name of John.

The Committee advise that the said Acts be left to their operation.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 27th October, 1875.

With reference to the Statutes of the Province of Prince Edward Island passed in the Session of 1875, the undersigned begs respectfully to report as follows:—

Cap. 1. "An Act to incorporate the Merchants Marine Insurance Company of Prince Edward Iisland."

By this Statute certain persons are incorporated under the above title.

By the 2nd Section it is provided that the Company shall have power to make with any person or persons all insurances connected with marine risks against loss or damage either by fire or by peril of navigation of or to any vessel, &c., either sea-going or navigating upon the lakes, rivers or navigable waters. It appears to the undersiged that under the express language of this clause it is attempted to give the Company power to do an Insurance business with persons not residents of the Provinces in respect of risks on vessels not touching Provincial Ports—in a word to do a universal Insurance business. The power of Provincial Legislatures to incorporate Insurance Companies is to be found, if at all, in the Eleventh Sub-section of the 92nd Section, British North America Act, 1867, which gives to the Local Legislatures authority to make laws for the incorporation of Companies with Provincial objects.

It appears to the undersigned that the powers attempted to be conferred on this Company are beyond any fair construction of these words; and he recommends that the attention of the Government of Prince Edward Island be called to the Act with a view to its amendment by such a limitation of the powers of the Company as may obviate this objection.

Cap. 6. "An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown."

This Act is in amendment of 22 Vic., Chap., 3 of the Statutes of Prince Edward Island, intituled: "An Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown."

By that Act it was provided that the Police Court of the City of Charlottetown should have power to hear and determine in a summary manner certain larcenies and the receiving of stolen goods within certain limits, and to punish the offender by fine not exceeding ten pounds or by imprisonment with or without hard labor not exceeding six months.

By the Act now under consideration it is provided that the Stipendiary Magistrate shall have the power so conferred upon the Police Court; and by the 2nd and 3rd Sections it is provided that the penalty for the crimes shall be altered by striking out the words "by fine not exceeding ten pounds."

It appears to the undersigned that this latter amendment is an interference with the Criminal Law beyond the competence of the Local Legislature, and that the attention of the Government of the Island should be called to this Act with a view of so amending it as to obviate this objection.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 30*th October*, 1875.

On a Report, dated 27th October, 1875, from the Honorable the Minister of Justice, having reference to the Statutes of the Province of Prince Edward Island, passed in the Session of 1875, and reporting as follows:—

Chapter 1. "An Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island."

By this Statute certain persons are incorporated under the above title.

By the 2nd Section it is provided that the Company shall have power to make with any person or person all insurances connected with marine risks against loss or damage either by fire or by peril of navigation of or to any vessel, &c., either sea-going or navigating upon lakes, rivers or navigable waters. It appears to him, the Minister, that under the express language of this clause it is attempted to give the Company power to do insurance business with persons not resident of the Province in respect of risks on vessels not touching Provincial ports—in a word, to do a universal insurance business.

The power of Provincial Legislatures to incorporate Insurance Companies is to be found, if at all, in the 11th Sub-section of the 92nd Section, British North America Act, 1867, which gives to the Local Legislatures authority to make laws for the incorporation of Companies with Provincial objects. It appears to him that powers attempted to be conferred on this Company are beyond any fair construction of these words, and he recommends that the attention of the Government of Prince Edward Island be called to the Act with a view to its amendment by such a limitation of the powers of the Company as may obviate this objection.

Chapter 6. "An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown."

This Act is in amendment of 22 Vic., Chap. 3, of the Statutes of Prince Edward Island, intituled: "An Act to extend the criminal Jurisdiction of the Police Court in the City of Charlottetown." By that Act it was provided that the Police Court of the City of Charlottetown should have power to hear and determine in a summary manner certain larcenies and the receiving of stolen goods within certain limits, and to punish the offender by fine not exceeding ten pounds, or by imprisonment with or without hard labor not exceeding six months. By the Act now under consideration it is provided that the Stipendiary Magistrate shall have the power so conferred upon the Police Court, and by the 2nd and 3rd Sections it is provided that the penalty for the crime shall be altered by striking out the words "by fine not exceeding ten pounds or."

It appears to him that this latter amendment is an interference with the Criminal Law beyond the competence of the Local Legislature, and that the attention of the Government of the Island should be called to this Act with the view of so amending it as to obviate this objection.

The Committee submit the foregoing recommendations for Your Excellency's approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Telegram from Acting Secretary of State to Lieutenant-Governor Hodgson.

OTTAWA, 25th May, 1876.

To Lieutenant-Governor Sir R. HODGSON,
Charlottetown, P.E.I.

Please telegraph immediately what action on Order in Council of 30th October, 1875, on Chapters one and six. Acts sent you on with Despatch dated 4th November.

R. J. CARTWRIGHT,
For Secretary of State.

Reply.

CHARLOTTETOWN, 29th May, 1876.

From Charlottetown, P.E.I.

To Secretary of State, Ottawa.

Chapter one hundred and six amended in late Session of Legislature as suggested by Order in Council of thirtieth October, seventy-five.

R. HODGSON,
Lieutenant-Governor.

Telegram from Mr. Under Secretary Langevin to the Lieutenant-Governor of Prince Edward Island.

OTTAWA, 6th June, 1876.

To Lieutenant-Governor

Prince Edward Island, Charlottetown.

Please report action on Acts one and six of Session of last year in pursuance of Order in Council of 30th October last, and send copies of any Acts which may have been passed this year upon the subjects in question.

EDOUARD J. LANGEVIN,
Under Secretary of State.

Reply.

CHARLOTTETOWN, 7th June, 1876.

From Charlottetown, P.E.I.

To Secretary of State, Ottawa.

Acts one and six, Session of seventy-five, amended in late Session, seventy-six, as suggested by Order in Council, thirtieth October last, so stated in my telegram to you of the twenty-seventh May; copies of amending Acts will be forwarded in a few days so soon as printed with Crown Law Officer's Report.

R. HODGSON,
Lieutenant-Governor.

PRINCE EDWARD ISLAND, 39TH VICTORIA, 1876.

4TH SESSION—26TH GENERAL ASSEMBLY.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 12th May, 1876.

SIR,—I have the honor to transmit herewith for the consideration and approval of His Excellency the Governor General two Acts passed in the late Session of the Legislature of this Province; one intituled: "An Act to amend the Land Purchase Act, 1875"; the other intituled: "An Act relating to certain Departments of the Public Service." The first named is in triplicate, sealed and certified in the usual manner, and accompanying it are the reasons, in duplicate, assigned by the Attorney-General for its passing; the second is in duplicate, also duly sealed and certified, and, likewise, accompanied with the reasons in duplicate, assigned by that Officer for its passing.

The Act amending the Land Purchase Act, 1875, was reserved by me for the signification of His Excellency's pleasure thereon. To the Act relating to certain Departments of the Public Service my assent was given.

I beg respectfully to call His Excellency's attention to the Attorney-General's Report, and to his reasons therein stated, for the passing of the Act amending the Land Purchase Act, 1875, in which I concur, and which appear to me so pertinent and cogent, and I think so clearly show how necessary its provisions are to the effectual working of the Act alluded to, as to call for no particular observations on my part, beyond expressing my hope that it will receive His Excellency's favorable consideration.

The Act relating to certain Public Service Departments, passed with the view of rendering them more efficient, will, I trust, have the desired effect, and claims, in my opinion, His Excellency's favorable consideration.

The Land Commissioners' Court standing adjourned till the 1st day of July next, it is very desirable to know His Excellency's pleasure as regards the Act amending the Land Purchase Act previous to that period.

It will be perceived that the Act relating to the Public Service assented to by me expressly declares that it shall come into operation on the first day of July next, and the complications would be serious if, after the changes contemplated thereby have been carried out, His Excellency should think fit to refuse his assent to it; and, I therefore venture to express a hope that it may be convenient for His Excellency to signify his pleasure in relation to this Act also before the day specified.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. the Secretary of State.

REPORT *of Attorney-General, setting forth reasons for the Passing of the Act to amend "The Land Purchase Act*, 1875."

ATTORNEY-GENERAL'S OFFICE,

CHARLOTTETOWN, PRINCE EDWARD ISLAND, 6th May, 1876.

This Act was passed by the Legislature of this Province last Session for the purpose of removing doubts as to the meaning and construction of some of the provisions of "The Land Purchase Act, 1875," and to extend its powers.

By the 28th Section and sub sections of said Act it is provided that the Commissioners appointed thereunder in estimating the amount of compensation to be paid to a proprietor for his estate, should take into consideration the price at which other proprietors had heretofore sold their lands to the Government, the number of acres under lease, the length of leases, the rent reserved, the arrears, the years over which they extend, and the probability of their being recovered, the number of acres unleased and their value, the gross rental actually paid for the previous six years with the expenses incident to their collection, the number of acres held adversely, the reasonable probabilities of the proprietor sustaining his claim against squatters and the expenses attending thereon, the performance or non-performance of the conditions in the original grants from the Crown, the effect of such non-performance, and how far the several despatches from the English Colonial Secretaries to the Lieutenant-Governor of this Island or other action of the Crown or Government have operated as waivers of any forfeitures, the quit rents reserved in the original grants and how far the payments of the same have been waived or remitted by the Crown.

Proceedings have been taken in many cases under "The Land Purchase Act, 1875," by the Commissioner of Public Lands for the purchase of the estates of proprietors, and awards have been made by the Commissioners appointed to adjudicate thereon. The awards made in those cases adjudicated upon by the Commissioners of whom the Right Honorable Hugh Culling Eardly Childers was Chairman, were on the face of them silent as to the matters set forth in the sections 28 and its sub-sections, although, in fact, they were as fully investigated and enquired into by the Commissioners, as the nature of the several cases would permit of, and were taken into their consideration in estimating the value of the lands.

This section was looked upon and construed as merely directory of the matters they were to consider in forming their conclusions as to the nature of the proprietor's estates. It never was contemplated as enacting matters which the Commissioners should be bound specifically set out on the face of their awards, such a construction as that would operate to defeat the object of the Act entirely, inasmuch as no specific award could be made on some of the points, such for instance as the boundaries of the land held by each squatter without endless trouble and expense.

The awards were drawn in general terms, simply stating the sum awarded to the proprietor, giving no description of the land or the acreage, and making no reference to the matters mentioned in Section 28. A large number of the proprietors whose estates were thus awarded for, have not appealed from the awards; but the decision of the Supreme Court has thrown doubts upon the validity of these awards, which doubts it is essential should be removed. Applications were made in two cases on behalf of the proprietors (Miss Sullivan and the Honorable Ponsonby Fane) to restrain the Public Trustee from executing a conveyance of their estates under Section 54 of the main Act, and to set aside the awards on the grounds that they did not expressly find and determine on their face the matters mentioned in said Section 28 and sub-sections; and that they were uncertain, inasmuch that they did not describe the lands by metes and bounds nor give the acreage.

The Supreme Court of this Province has decided in favor of these objections, and has quashed the awards in both of the cases argued before them.

The Commissioner of Public Lands has appealed Miss Sullivan's case to the Supreme Court at Ottawa; negotiations for a peaceful settlement of the Fane estate are pending.

I have no hesitation in stating that the intention of the Legislature was, that the facts and circumstances set fort in the said Section 28 and sub-sections were merely to be taken into consideration by the Commissioners in valuing the land, and not that the finding on each fact and circumstance should be specifically set forth in their awards.

Indeed, it would seem, from the very matters themselves, that they were intended more as guides to the Commissioners in making their awards than subjects for any specific finding: such, for instance, as the probabilities of proprietors recovering land from squatters, and the effect of Despatches from the Colonial Office relative to the performance and non-performance of the conditions under which this Island was originally granted away by the Crown.

For the purpose of carrying out the intention of the Local Legislature this Act provides that no awards heretofore made, or hereafter to be made, shall be void by reason of the said facts and circumstances not being expressly found in such awards but still retains to the Supreme Court the power of remitting them back to the Commissioners in cases where they do not contain descriptions of the estates, and also power to restrain the Public Trustee from executing a conveyance of such estates until a description shall be settled by the Court. It also extinguishes all quit rents and arrears thereof due on all estates adjudicated on, and releases the proprietors from all liability on account thereof.

The Act also makes provision to meet the case of James E. Montgomery, Esq., who made an application to the Supreme Court to have the award in his case remitted back to the Commissioners to correct an alleged omission. It appears that between the time of making the award and the order to remit it back, the Right Honorable Hugh Culling Eardly Childers, the Commissioner appointed by His Excellency the Governor General, resigned his position and left this Province; doubts were consequently entertained whether the Court as constituted after that gentleman's vacancy had been filled up, would be competent to review the matters taken in consideration by the Commissioners who made the award.

The Act gives Mr. Montgomery power to appoint a new Commissioner, and provides for the mode of procedure; it also empowers the Commissioners, if they think fit, to make a new award, and they are not to be tied down to the sum named in the award so remitted to them.

These provisions and powers are not to be confined to Mr. Montgomery's case, but are to be general in their application, and are intended to apply to any similar case that may arise in working out the Land Purchase Act.

The Act also makes provisions to meet the case of the estate of John Winsloe, a lunatic.

The Master of the Rolls declined to appoint a Commissioner to act on behalf of the proprietors deciding that the provisions of the Land Purchase Act did not provide for such a case. This Act supplies this defect by declaring that the law shall extend to such cases.

This estate of John Winsloe is the only estate owned by a lunatic proprietor, and as the lands surrounding it have been purchased under the Compulsory Act, it is thought necessary to make the law plain enough to embrace John Winsloe's estate.

There is also provision made that where notices for hearing cases have been given under Section 14 of the principal Act, and such hearings from some cause or other have not taken place, that the proceedings are not to abate on that account, but that fresh notices may be given.

There is a necessity for this amendment.

The Act also extends the time stipulated in Section 2 of the main Act for notifying proprietors of the Government's intention to purchase their estates. There are one or two small estates that will elude the operation of this Act if this amendment is not sanctioned.

It is proposed to extend the time for a further period of sixty days from the publication of His Excellency the Governor General's assent to this Act.

Provision is also made to meet the case of a Commissioner, who may be disqualified to act, on account of relationship to a proprietor, by authorizing the appointment of a new Commissioner, *ad hoc*—a case has arisen which has rendered this provision necessary. The Deed from the Public Trustee to the Commissioner of Public Lands, on its production in any Court of Law or Equity in the Province, is to be received as *prima facie* evidence that the proceedings taken under the Land Act have been regularly complied with; this provision is, in my opinion, very necessary; without it, it will be difficult to protect the interests of the Government of this Province, and will not, I think, work injustice to individuals.

Proprietors, under this Act, will be required, before receiving the amount of their award, to deposit with the Government their muniments of title, leases and plans.

Without this provision it will be difficult, if not impossible, for the Commissioner of Public Lands to carry out the sale of the lands to the tenants or occupiers.

The Act extends the definition of the term "Proprietor" so as to include tenants *in tail;* this has become necessary in consequence of the decision come to by the Supreme Court, that The Land Purchase Act, 1875, only extends and applies to owners of lands in fee simple. As estates tail in land, situate in this Province, may, at any time, be barred by the tenant *in tail*, who can exercise as full a disposing control over such estates as a tenant in fee, it is not considered that this provision is of an objectionable or exceptional character. Provision is made that nothing in this Act shall, in any way, affect the case of Miss Sullivan, appealed from the Supreme Court of this Province to the Supreme Court of the Dominion of Canada.

All the provisions of this Act are, in my opinion, absolutely necessary for the satisfactory and speedy winding up of the long vexed Land Question of this Province. It involves no new principle, *quoad* the intentions of the framers of the principal Act, and will not work any wrong or injury to any proprietor, and is really an Act to remedy practical defects, many of which were not foreseen when the Land Purchase Act, 1875, was passed, and have arisen chiefly from the construction put upon that Act by the Supreme Court of this Province.

As the Land Commissioner's Court stands adjourned to the 1st July next, it is very desirable to obtain His Excellency the Governor General's decision upon the Act in question, before that date, if possible.

FREDERICK BRECKEN,

Attorney-General, Prince Edward Island.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 23rd May, 1876.

Upon a Despatch from the Lieutenant-Governor of Prince Edward Island, dated the 12th May instant, and submitting an Act passed by the Legislature of the Province of Prince Edward Island at its late Session, intituled: "An Act relating to certain Departments of the Public Service;"

The undersigned has the honor to recommend that Your Excellency in Council do not exercise the right of disallowance thereof, but that the same be left to its operation.

EDWARD BLAKE,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th May,* 1876.

Upon a Despatch from the Lieutenant-Governor of Prince Edward Island dated the 12th May, instant, submitting an Act passed by the Legislature of the Province of Prince Edward Island at its late Session, intituled: "An Act relating to certain Departments of the Public Service;" on the recommendation of the Hon. the Minister of Justice, the Committee advise that the said Act be left to its operation.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 9th June, 1876.

Two Acts in duplicate, Caps. 18 and 19, passed in late Session of Legislature.

Solicitor-General's reasons, in duplicate, for their passing.

SIR,—I have the honor to transmit herewith, in duplicate, under the Great Seal of this Province, and certified by the Solicitor-General, in the absence of the Attorney-General, two Acts passed in the late Session of the Legislature, which have recently been the subject of telegrams between your Department and myself, viz., Cap. 18, intituled: "An Act respecting the Jurisdiction of the Stipendiary Magistrate's Court," and Cap. 19, intituled: "An Act to amend the Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island," together with reasons in duplicate, assigned by the Solicitor-General, for their passing, which Acts that officer states to be in accordance with suggestions contained in an Order of His Excellency the Governor General in Council, dated the 30th of October, 1875.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

Reasons given by Mr. Solicitor-General Sullivan.

SOLICITOR-GENERAL'S OFFICE, CHARLOTTETOWN, P.E.I., 8th June, 1876.

Reasons for enacting, by the Legislature of the Province of Prince Edward Island, the following Statutes:—

39th Victoria, Cap. 18. "An Act respecting the Jurisdiction of the Stipendiary Magistrate's Court."

This Act is in amendment of a Statute passed by the Provincial Legislature in the Session of 1875, intituled: "An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown," and was enacted in pursuance of, and in order to carry out, a recommendation contained in an Order of His Excellency the Governor General in Council, dated 30th October, 1875, a copy of which Order was enclosed to His Honor the Lieutenant-Governor of this Province, with a Despatch from the Under Secretary of State, dated 4th November, 1875.

Chapter 19.—"An Act to amend an Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island."

This Act is in amendment of Chapter 1 of the Provincial Statutes of 1875, intituled: "An Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island," and is intended to obviate the objection to the Act of 1875,

as contained in the Order of His Excellency the Governor General in Council, to which reference is above made.

W. W. SULLIVAN,
Solicitor-General.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 15th June, 1876.

SIR,—I have the honor to transmit, in duplicate, an Act, Cap. 3, intituled: "An Act further securing the independence of the General Assembly," passed in the late Session of the Local Legislature, duly certified and sealed under the Provincial Great Seal, and also to transmit therewith, in duplicate, reasons assigned by the Solicitor-General, in the absence of the Attorney-General, for its passing, to which Act my assent was given.

The period for which the present House of Assembly is elected, as defined by Statute, will expire in the month of April next, and my Government have informed me that it is their attention to advise a dissolution, in order that a General Election may take place in the month of August next, which, they assert, will be the time most convenient to the constituency for such purpose.

Under these circumstances, it is very desirable that His Excellency the Governor General's pleasure should be pronounced upon the Act in question previous to a dissolution, as affecting the status of persons eligible for seats in the Local Legislature, and I therefore beg to express the hope that it may be convenient for His Excellency to signify his pleasure thereupon at an early day.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Reasons of Mr. Solicitor-General Sullivan.

SOLICITOR-GENERAL'S OFFICE, CHARLOTTETOWN, P.E.I., 15th June, 1876.

Reasons for enacting the following Statute, 39th Victoria, Cap. 3: "An Act further securing the independence of the General Assembly."

This Act was passed, as its title indicates, for the purpose of securing the independence of the General Assembly of this Province. Previous to its enactment there was no limit to the number of officials or persons in public employments, who might hold seats in the Local Legislature, many of whom, under the then existing law, were not required to seek re-election on obtaining such appointments, nor was there any law preventing persons from holding seats in the Provincial Legislature whilst being Members of the Senate or of the House of Commons of Canada. This state of things was considered derogatory to the independence of the Local Legislature, and the above-mentioned Statute was enacted for the purpose of limiting the number of officials and others in public employment, who may hold seats in the General Assembly, as well as abolishing dual representation.

The Act also contains ordinary, and what have been deemed necessary, provisions for the regulation of the mode in which the Speaker and other Members of the Assembly may resign their seats.

W. W. SULLIVAN,
Solicitor-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 24th June, 1876.

The undersigned has the honor to report:—

That by a Despatch of the 15th June instant (No. 23), the Lieutenant Governor of the Province of Prince Edward Island transmits an Act passed in the last Session of that Island,—

Chapter 3, intituled: "An Act further securing the independence of the General Assembly," together with the reasons assigned by the Solicitor-General for its passing, to which Act the Lieutenant-Governor had given his assent.

The Lieutenant-Governor, under the circumstances mentioned in his Despatch, expresses a hope that the pleasure of the Governor General may be pronounced thereupon at an early day.

Upon persual of the Act, and of the Report of the Solicitor-General of Prince Edward Island, the undersigned has the honor to recommend that the right of disallowance in regard to this Act of the Legislature of Prince Edward Island, Chapter 3, and intituled: "An Act further securing the independence of the General Assembly," be not exercised.

H. BERNARD,
Deputy Minister of Justice.

I concur.

R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 21*st July,* 1876.

On the recommendation of the Hon. Mr. Scott, acting in the absence of the Minister of Justice, the Committee advise that the right of disallowance in regard to the Act of the Legislature of Prince Edward Island, Chaptered 3, and intituled: "An Act further securing the independence of the General Assembly," be not exercised.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 21st June, 1879.

SIR,—I have the honor to transmit herewith, in duplicate, certified and sealed under the Provincial Great Seal, an Act, Cap. 5, intituled: "An Act to facilitate the purchase of the Estates of Proprietors, under the Land Purchase Act, 1875," passed in the late Session of the Local Legislature, with reasons assigned by the Solicitor-General, in the absence of the Attorney-General, for its passing also in duplicate, to which Act my assent was given. The Act in question will be a valuable auxiliary to the Land Purchase Act of 1875, and its preamble, together with the Solicitor-General's reasons, lucidly explain its object, and, as several of the proprietors are desirous to avail themselves of its provisions, I venture to express the hope that it

Chapter 5 "An Act to facilitate the purchase of the Estates of Proprietors under the Land Purchase Act, 1875," in duplicate. Reasons assigned by the Solicitor General for its passing, in duplicate.

will receive the favorable consideration of His Excellency the Governor General, and that it may be convenient for His Excellency to signify his consideration at an early period.

I have, &c,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Reasons of Mr. Solicitor-General Sullivan.

SOLICITOR-GENERAL'S OFFICE, CHARLOTTETOWN, P.E.I., 19th June, 1876.

Reasons for passing the following Act, 39th Victoria, Chap. 5, "An Act to facilitate the purchase of the Estates of Proprietors under 'The Land Purchase Act, 1875.'"

This Statute empowers the Commissioner of Public Lands, on behalf of the Provincial Government, to accept voluntary conveyances from proprietors for whose lands awards have been made under "The Land Purchase Act, 1875." In that Act there is no provision authorizing such conveyances, and several proprietors having expressed their willingness to execute deeds on payment to them of the sums awarded in their favor, this Act was passed to legalize such conveyances and payments.

W. W. SULLIVAN,
Solicitor-General.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 30th June, 1876.

Reference is made of a Despatch of Sir Robert Hodgson, Lieutenant-Governor of Prince Edward Island, enclosing certified copy of an Act passed by the Legislature of that Island, 39th Vic., Cap. 5, being "An Act to facilitate the purchase of the Estates of Proprietors under the Land Purchase Act, 1875."

The Despatch also transmitted the Report of the Solicitor-General with reasons for its passage.

The Lieutenant-Governor remarks that the Act in question will be a valuable auxiliary to the Land Purchase Act, 1875, and that as several of the proprietors are desirous of availing themselves of its provisions, he ventures to express the hope that it will receive the favorable consideration of the Governor General, and that it may be convenient for His Excellency to signify such his consideration at an early period.

The Report of the Solicitor-General states, that the Statute empowers the Commissioner of Public Lands to accept voluntary conveyances from proprietors, for whose lands awards have been made under the Land Purchase Act, 1875.

In that Act there is no provision authorizing such conveyances, and several proprietors have expressed their willingness to execute deeds on payment to them of the sums awarded in their favor. This Act was passed to legalize such conveyances and payments.

Such is the effect also of the preamble to the Act which is borne out by the details of the Act itself.

The undersigned recommends, therefore, that the right of disallowance by His Excellency the Governor General, of an Act of the Legislature of the Province of Prince Edward Island, passed on the 29th April, 1876, and intituled: "An Act to

facilitate the purchase of the Estates of Proprietors under the Land Purchase Act, 1875," be not exercised.

R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 21st July*, 1876.

On the recommendation of the Hon. Mr. Scott, acting in the absence of the Minister of Justice, the Committee advise that the right of disallowance by Your Excellency of an Act of the Legislature of Prince Edward Island, passed on the 29th April, 1876, and intituled: "An Act to facilitate the purchase of the Estates of Proprietors under the Land Purchase Act, 1875," be not exercised.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Mr. Hodgson to the Secretary of State of Canada.

OTTAWA, 8th June, 1876.

SIR,—The Legislature of Prince Edward Island during the last Session, passed an Act in amendment of "The Land Purchase Act, 1875," which very seriously affects the rights and the property of persons holding land in that Province.

The Act was introduced and passed through the Legislature without any *notice* to those who will be affected by its provisions, and it was only to-day that I had an opportunity of partially making myself acquainted with its contents.

The Lieutenant-Governor of Prince Edward Island declined to give his assent to it, and reserved it for the consideration of His Excellency the Governor.

The Act is for the purpose of giving effect to certain awards considered to be void by those whose property is dealt with by them. An award similar to these now attempted to be legalized has been declared to be void by the Supreme Court of Prince Edward Island, and the propriety of the decision is now under the consideration of the Supreme Court of Canada.

In one case, one of my clients, Miss Helen McDonald, of Montreal, has moved the Supreme Court of Prince Edward Island to set aside her award. The Act, if assented to, will have the effect of declaring her award to be valid, and, not only so, but there are no provisions made for indemnifying her in the costs incurred by her in the proceedings she has instituted.

In my own case, the Commissioner who acted for me last November went to England, and has only just returned. I intended to have moved to set aside the award, but required his affidavit to enable me to do so. I am now in a position to obtain it, but should I commence proceedings to set it aside, and even succeed in so doing, this Act will, by reason of its retroactive aspect, give validity to an instrument containing defects which the Supreme Court has already declared are fatal to an instrument precisely similar in its terms; and not only will this injustice be wrought, but I shall be compelled to pay the costs for instituting proceedings which, at the time I commenced them, I had a clear legal right so to do, but which I am deprived of by *ex post facto* legislation.

Memorials showing these and still greater hardships are in course of preparation, and His Excellency will be prayed to withhold his assent from this measure. The secrecy and celerity with which it was introduced and carried is the reason why

memorials against it have not been sooner presented, for it is a matter of impossibility for parties residing thousands of miles from Prince Edward Island to become acquainted with proceedings such as these, except by the ordinary course of the transmission of news through the post.

I, therefore, respectfully request that His Excellency will be pleased to delay the consideration of this Act until he has an opportunity of also considering the memorials which will be presented against it.

I have, &c.,

EDWARD J. HODGSON.

The Hon. R. W. Scott,
Secretary of State for Canada.

Mr. Stewart to the Earl of Dufferin.

Strath Gartney, P. E. Island, 8th June, 1876.

My Lord,—I am now about to hand in my title deeds, and those of my late father, to the Prothonotary of the Supreme Court of Judicature in this Island. Having protested against every stage of "The Land Purchase Act, 1875," I now most respectfully beg to protest against *this*, the last compulsory enactment to which I expect to be subjected under that Act, by virtue of which the two Commissioners who signed the award, apportioned seventy-six thousand five hundred dollars to me, for an inheritance worth, at least, five times that amount. Your Lordship is in possession of the memorial and memorandum which I had the honor of addressing to the Earl of Carnarvon, and which he transmitted to Your Lordship for your consideration.

I have, &c.,

ROBERT BRUCE STEWART.

The Right Honorable
The Earl of Dufferin.

Mr. Edward J. Hodgson to His Excellency the Governor General.

Library of Parliament, Ottawa, 17th June, 1876.

To The Right Honorable The Earl of Dufferin, K.C.B., &c., &c., Governor General of Canada.

May it Please Your Excellency:

As one of the proprietors of lands in Prince Edward Island, and also as Counsel for all the English proprietors and nearly all those resident therein, I venture to address Your Excellency on their behalf, with reference to an Act passed by two branches of the Legislature of Prince Edward Island (but not assented to by Sir Robert Hodgson the Lieutenant-Governor), intituled: "An Act to amend the Land Purchase Act, 1875"

Since the passing of the Land Purchase Act, 1875, the following proprietors have received what has been awarded for their estates, and therefore I do not speak on their behalf, viz.:

1. Robert Bruce Stewart.
2. S. C. B. Ponsonby Fane.
3. George W. DeBlois.
4. William Cundall.
5. Miss Cundall.

I left Charlottetown, P.E.I., last Monday week, to attend the Supreme Court of Canada, for the argument of Miss Sullivan's case under this Act. At that time the proprietors whose names I have given above are those only who have been paid, for the great majority of the remainder are still pending, eleven months having elapsed since the unfortunate owners have been brought before this Court; deprived of their right to receive the arrears of rent due them, and still unable to obtain their money.

The Act amending the Land Purchase Act has been reserved for the special consideration of Your Excellency as the Governor General of Canada, and I humbly petition Your Excellency to disallow that Act, for the reasons which in this memorial I shall state for Your Excellency's consideration.

As I shall have occasion to make frequent reference to the awards made by the Commissioners, it would be convenient if I should set out the form in which they have been made, it is as follows (omitting the title):

The sum awarded under Section 26 of the said Act by us Commissioners appointed under the provisions of the said Act is $

Signatures.

It is provided by the Statute reserved for Your Excellency's consideration that no award heretofore made, or hereafter to be made, shall be void by reason of its not finding any of those facts which by the Land Purchase Act, 1875, it was bound to have found expressly.

I shall assume that the decision of the Supreme Court of Prince Edward Island in Miss Sullivan's case is valid. True, an appeal has been taken out against it, but until reserved it must be considered to be law, and the Legislature must have believed very strongly in the validity of the judgment or they would not have passed a Legislative enactment to reserve it.

Now, by that decision, it was declared to be the duty of the Commissioners, specifically, to find certain matters in issue submitted to their consideration, which are set forth in Section 28 of "The Land Purchase Act, 1875," among others,

1. The quit rents reserved to the Crown.

2. The effect of the non-performance of the condition of the original grants if they found they had not been performed.

3. The arrears of rent.

There are various other matters in Section 28, but I desire to call Your Excellency's attention to these three especially. The Supreme Court held that it was the duty of the Commissioners to find these matters on the face of their award, because, if they did not the proprietor would be seriously prejudiced. For instance, the quit rents reserved to the Crown by the original grants have, by an Act of the Legislature of Prince Edward Island (14 Vic., Chap. 3) been assigned to the Government of that Province, Sub-section *e* of the 28th Section of the "Land Purchase Act," directs the Commissioners to consider (and, as a necessary consequence, I submit to *determine*, for it is difficult to understand why any matters were referred to them unless it were that they *should* determine them) "the quit rents reserved in the original grants, and how far payment of the same have been remitted by the Crown." This is a Legislative declaration that there is a question whether the quit rents have been waived or remitted by the Crown. Now, the effect of the complete absence of any reference to the quit rents in the award might have this effect: That a sum (say $20,000) might have been deducted from a proprietor, and a balance of, say $60,000, awarded him, but this fact not appearing when the $80,000 had been paid into Court for the proprietor. There would be nothing to prevent the Attorney-General from coming into Court and, by information or proceeding in the nature of such, claiming the quit rents over again. It would be unavailing for the proprietor to plead that this matter had been determined, and that already thousands of dollars had been deducted from him. He could not plead the award. It is perfect. Silent as to this fact, and, by its terms, is expressed to be made, not in pursuance of "The Land Purchase Act, 1875," but only of its 26th Section.

The Attorney-General when presenting his claim would, under Section 40 of the last-mentioned Act, be entitled to the quit rents if found to be due; and that the unfortunate proprietor would be compelled to pay them a second time.

Now the Legislature of Prince Edward Island recognized this mode of viewing the case to be correct, for by the Act now petitioned against, Section 3, it is provided "no proceedings either *in personam* or *in rem* shall be commenced, prosecuted or maintained in any Court of Law or Equity for the recovery of any quit rents reserved in the original grants, or the lands of any proprietor for which any award has been made under 'The Land Purchase Act, 1875,' and all such quit rents shall be deemed and held to have been and to be absolutely and for ever released by such award, and such award shall and may be pleaded in law by any person or persons whomsoever of any action brought for the recovery of such quit rents."

This provision is more fair and just, and gives to the proprietor that protection which he is entitled to.

But it is evident that if these inefficient and illegal awards are to be rendered valid, the proprietors whose lands are dealt with are equally entitled to protection from the consequences which are certain to ensure from all omissions to find respecting—

(1) The conditions of the original grants from the Crown.

(2) The performance or non-performance of these conditions.

(3) The effects of such non-performance. ("The Land Purchase Act, 1875," Section 28, Sub-section *e*.)

A course somewhat similar to that already pointed out regarding the quit rents would be pursued, but with consequences still more serious to the proprietor.

The Crown has ceded all its rights in the lands in Prince Edward Island to the Government of that colony. Having got possession of the proprietors' lands, it would be an easy matter to procure an inquest of office to find whether the conditions of the original grants had been performed. But it may be said, if upon the execution of this inquest of office it were found that the land is liable to escheat, how could it affect the proprietors? Very seriously, and in this way,—upon the resumption of the lands by the Government of Prince Edward Island, every tenant is liable to be ejected from his farm, and under the covenant for quiet enjoyment contained in his lease, he would have his remedy by an action for damages against his landlord. The tenants who had no leases would have no cause to fear from the action of the Government, nor indeed would those who have leases, they would be well recouped for any temporary dispossession or liability to such, but the power of forcing a landlord into Court to answer actions of damages by hundreds of tenants would never be allowed to lie dormant, stripped of their property, allowed in many instances not one-third of its value, the unfortunate proprietors never would be allowed to withdraw from the island the pittance they have been awarded in order to invest it in some other portion of Her Majesty's realms, where to own land is not considered in the light of a crime.

This, in truth and in fact, is the real reason why this Act, now petitioned against, has been passed. The proprietors are withdrawing the money they have received to invest it elsewhere; their experience of owning property in Prince Edward Island has been too bitter and too dearly purchased to induce them to risk further there the wreck of their property. To stop this withdrawal of their money is now sought, and it must be admitted that the mode taken is a most injurious one. When the proprietors are brought into Court to answer their tenants for disturbance of their holdings under the proceedings soon to be instituted, it will be useless for them to produce the bald, naked award, consisting of twenty-three words, exclusive of the amount, for it raises no presumption that this matter has been determined.

If the proprietors are entitled to protection in the matter of the quit rents, and the Legislature of Prince Edward Island have conceded that point, they are also entitled to protection from being twice charged with damages on account of alleged non-performance of the conditions of the original grant.

But there is another matter which the Commissioners are bound to find under Section 28, of which, by the amending Act, they are relieved from doing, and, although it does not affect so many of the proprietors, still there are some who will be very seriously injured by its omission from the award. It is the direction to find the arrears of rent.

The Commissioners have every power enabling them to do this. They can compel, under Section 20, the production of all documents, books, papers, &c., in order to enable them to see how the estate stands.

Where a proprietor has died the arrears of rent due at the time of his death pass to his executors, the rents due since being incident to the reversion pass with it to the heir at law or the devisee.

There is a class of cases of this kind which has been dealt with by the Commissioners; under their award a lump sum has been given. Now, when the Executor goes into the Supreme Court to ask for his share of the award, that is the arrears due to the deceased proprietor at the time of his death, if the award had set out, as it should have done, the arrears of rent there would have been no difficulty. But, under the award sought to be confirmed, how can the Court tell what amount he is entitled to? It may be assumed that, in any case, something has been deducted from these arrears. How can the Supreme Court tell how much? If it gives the executor more than the Commissioners it must come out of the lump sum awarded, and the proprietor unjustly loses by the amount of such excess. If it gives less than the Commissioners the Executor loses the deficiency. I am the Administrator *cum testamento annexo* of the estate of the Rev. John McDonald, which, at his death, passed to his nephew the Rev. G. A. S. McDonald. But the arrears due at the time of the first named gentleman's death passed to me, and when collected are to be handed over to Cardinal Manning in trust for certain charitable purposes in England. I would here quote the words of Judge Peters, one of the Judges of the Supreme Court of Prince Edward Island, in giving judgment in Miss Sullivan's case: "There are two lines in the 20th Section (of The Land Purchase Act, 1875) which I think have been very much overlooked. They are these, 'and the facts which they may require to ascertain in order to carry this Act into effect.' The meaning of these I take to be is, facts which it is their duty to ascertain in order to give full effect to this Act. This goes far beyond what they themselves have to perform. It points to all that has to be done by others to carry out what they have begun. To what the public trustee has to do, and to what this Court has to do in making distribution. I see it stated that in one case the arrears are assigned to Cardinal Manning. If the award finds a lump sum, and the Cardinal's claim comes in to participate in the distribution, how could we ascertain how much of the lump sum was awarded in respect of the land and how much in respect of arrears of rent? We could make no distributions in such a case, and the same thing may happen in other cases where arrears are due to the deceased proprietor, and the present proprietor is not his personal representative, we could be compelled to hold the award void in such a case."

There is, however, another consideration which I venture to press upon Your Excellency's consideration as even a still stronger reason why this Act should not be permitted to go into operation.

It assumes (and assumes correctly enough) that awards made in the general terms, above alluded to, are void. In some instances application has already been made to the Court to set them aside. In an application made by myself, as representing Miss Helen McDonald, of Montreal, proceedings have been taken in the Supreme Court to set aside the award, for the very defects which this Act now legalizes. The words of the first Section of the Act are so strong that they will have, as they are intended to have, a retroactive aspect, so as to make the proceedings already taken of no effect, nor does it provide that the parties who have taken these proceedings shall be indemnified in their costs.

I beg to direct Your Excellency's attention to the opinions of English Judges to Legislation such as this, as reported in the case of Moore *vs.* Durden, 2 Exchequer Reports p. 22.

In that case the Court refused to follow the rule which requires Acts of Parliament to be construed, by giving to its language the interpretation ordinarily attached to it, because its effects would be to make that illegal which, but for such rule, would have been legal. Alderson, B., says :—

"It is contrary to the first principles of justice to punish those who have offended against no law, and surely to take away existing rights, without compensation, is in the nature of punishment." His Lordship further stated that he would not suppose "that the Legislature contemplated so gross an act of injustice as, without compensation, to take away an existing right of action, already pending, and that too with no provision even for the costs incurred in the enforcing of what was before a legal right;" but it was added that this was only a rule of construction, and would yield to the intention of the Legislature, if sufficiently expressed. There can be but little doubt that, in the Act now under consideration, the Legislature has expressed itself in such a manner that "the first principles of justice" have been violated in enacting "so gross an act of injustice as, without compensation, to take away an existing right." The words of the 1st Section, "no award heretofore made, or hereafter to be made," will compel the Court "to punish those who have offended against no law," by compelling them to relinquish proceedings in a Court of Law, which, at the time they instituted them, they had a legal right so to do, and by compelling them to pay costs for availing themselves of a perfectly legal right. But surely this great wrong, ineffective as it will be for us to argue should this Act become law, is a strong valid reason why its operation should be stayed, and why the proprietors, whose great misfortune it is to hold lands in Prince Edward Island, should not be still further oppressed by so cruel an act of injustice.

Any forbearance, any clemency on the part of the Commissioner of Public Lands, the proprietors have no reason to hope for or to expect; and I would point to Your Excellency that Section 11 of this Act, now under consideration, arms him with power to seize the lands of an unfortunate lunatic, whose income barely enables him to be supported in the Provincial Asylum at Nova Scotia. When the estate has been taken away, if anything be left him at all after the Attorney-General has procured the confiscation of a large proportion of his award, in the manner I have already pointed out, his fate will, indeed, be a sad one.

This, however, is a matter in which I have not a right to address Your Excellency, except in the interest of common humanity; but knowing the circumstances, that the son of an English gentleman, now deceased, an unfortunate lunatic in the Nova Scotia Asylum, is sought to be deprived of his property, and that Sections 11 and 12 of the Act, now under consideration, amount to and are intended as a statutory reversal of the decision of the Master of the Rolls of Prince Edward Island, in whose charge he is; in the matter of the estate of that very lunatic, I venture to express the hope that Your Excellency will cause the decision to be laid before you, before Your Excellency will cause the Royal assent to be given to so objectionable a measure.

The question whether the "Land Purchase Act, 1875," is not *ultra vires*, being in excess of the jurisdiction given to the Local Legislature under the British North America Act, has been raised on behalf of the proprietors, and has been decided adversely to their contention that it is so; such being the case, the measure, as under consideration, is freed from any of those considerations which attach to the giving of the Royal Assent to those measures over which the Dominion Government has jurisdiction.

Before the admission of Prince Edward Island into the Dominion, it was not unusual for those whose rights were attacked by Acts of a nature similar to this, to lay their humble Petition at the foot of the Throne. Since Confederation, they now cannot do it, but in matters such at this, solely under the control of the Local Legislature.

Your Excellency is regarded as in no ordinary degree the special representative of the Queen's Majesty, clothed with the authority, and we dare not doubt, not indisposed to use it to protect those of Her Majesty's subjects, who are conscious of having done no wrong, and who humbly trust that although they are the possessors of landed

estate, out of England, Your Excellency will not on that account refrain from exercising the Royal Prerogative to save them from being the victims of a cruel wrong, by the operation of a harsh, unjust and oppressive measure.

I have, &c.,

EDWARD J. HODGSON.

Petition of certain Proprietors and Owners of land in Prince Edward Island.

To His Excellency the Right Honorable Sir Frederic Temple, Baronet, Earl of Dufferin, Governor General of Canada, &c., &c., &c.

The humble petition of the undersigned proprietors and owners of land in Prince Edward Island RESPECTFULLY SHEWETH :—

That an Act was passed in the last Session of the General Assembly of Prince Edward Island, intituled : " An Act to amend the Land Purchase Act, 1875," which was reserved for the signification of Your Excellency's pleasure thereon, and which is of so unusual a nature, and will, if assented to, so prejudicially affect your petitioners that they solicit Your Excellency's attention to some of its provisions.

The Land Purchase Act of 1875, in the opinion of your petitioners, affected the rights of private property to an unusual extent, and the Act of last Session is an attempt to cure certain omissions and errors committed by the Commissioners appointed under that Act in proceedings before them which are still pending between the Government on the one side and certain proprietors on the other. Although it was notorious, at the time of passing the Act, that these errors would be made the ground of judicial applications to set aside these proceedings, and the awards founded upon them, whenever the Government attempted to enforce them. Indeed, at the very time of passing the Act, awards made in the estates of certain proprietors had been declared invalid by the Supreme Court of the Colony, for objections similar to those which the Government now attempt, by special legislation, to correct in the case of other proprietors.

By the " Land Purchase Act of 1875," leave is reserved to proprietors to make application to the Supreme Court, within a limited period after the making of awards, to have those awards remitted back to the Commissioners for re consideration. But because certain of your petitioners were advised that the awards made in their cases were illegal and void, they allowed the time granted for applications to remit them back to elapse, relying on their ordinary right to oppose the awards whenever the Government attempted to enforce them ; but the Government now seek, by retrospective legislation, to remove objections that have been judicially decided to be fatal to the awards, and, by that legislation, make no provision for enabling the proprietors thus subjected to the consequences of these irregular and erroneous awards, to have them remitted back to the Commissioners for amendment or correction.

The " Land Purchase Act of 1875 " makes no provision for indemnifiying proprietors whose estates are adjudicated on in the Commissioners' Court against expenses to their Solicitors' Counsel and witnesses, and the second Section of the Act of 1875 renders awards legal, without any description of the lands taken from proprietors, but subjects such proprietors to the additional expense of settling the description of such lands by the Supreme Court or a Judge thereof, and makes no provision for refunding such proprietors the expense caused by such additional proceeding.

Your petitioners submit that inasmuch as by the " Land Purchase Act, 1875," proprietors are allowed to retain certain portions of their lands defined by the Act, while the rest is compulsorily taken from them, it is but reasonable and proper that the Commissioners should be required to distinguish in their awards the portion of each estate taken from the portion reserved ; and that it is arbitrary and unjust by

retrospective legislation to subject proprietors to the expense of having the omissions and errors of the Commissioners corrected by additional proceedings before the Supreme Court, without at least providing for the payment of all expenses incident to such supplemental litigation.

The estate of your petitioner, James Frederick Montgomery, was adjudicated on by the Commissioners, who made an award in September last, and your petitioner discovered, after the same was made, that one year's rent was omitted by them from the award, under the impression that your petitioner could recover that year's rent, notwithstanding the award; whereas, in fact, it could not be so recovered, because it was overdue in law at the time the award was made, although in fact the custom pursued by your petitioner with his tenants was not to collect it until the autumn following. Your petitioner, James F. Montgomery, on discovering this omission applied to the Supreme Court, pursuant to the provisions of the "Land Purchase Act, 1875," to have his award remitted back to the Commissioners to correct the alleged error, and an order was made in October last remitting back the award to the Commissioners for correction. No application was made by the Government to have his award remitted back or set aside. He has urged the Commissioner of Public Land, in whose name these proceedings on behalf of the Government are conducted, to have the case re-heard, but hitherto, without success. He has also made repeated reasonable offers for the voluntary conveyance of his estate to the Government. If he is in error concerning the said year's rent, the amount of the award should stand; on the other hand, if that year's rent has really been omitted, the amount of the award should be increased. But the Government, instead of entertaining his offers of a voluntary settlement, or bringing the case to a re-hearing within a reasonable time, now pass an Act affecting him individually, and enabling certain persons therein named to hear and re hear all the evidence, and to make a new award (see Section 4); and by Section 7 of the same Act such new award may give your petitioner a less amount than was awarded by the Commissioners whose award has been so remitted back.

The Commissioner on behalf of the Local Government has made and filed an affidavit against the claim of your petitioner, James F. Montgomery, notwithstanding which the Supreme Court remitted back the award. The present Commissioner appointed by the Governor General had not been appointed when your petitioner's case was heard. If the Act of 1876 becomes law, your petitioner will be obliged to go to the expense of having the whole case re heard, and all his evidence reproduced, for the information of the new Commissioner, to avoid the danger of having his award reduced, notwithstanding the fact that the alleged omission for which his award was remitted back, consists of whether said year's rent was omitted. Even if your petitioner is in error in contending that it has been omitted, the fact of his being so mistaken could not lessen the award. No provision is made by either Act by which your petitioner can recover the expenses of the former or subsequent hearings, and he confidently hopes that Your Excellency will not sanction retrospective and personal legislation of this kind, enacted without cause, and the only effect of which would be to harass your petitioners unnecessarily.

Your Excellency will observe that while your petitioner is thus dealt with personally and by name, and put to the annoyance and expense of a general re-hearing, the same Act provides that in all other cases (see Section 8) when awards are remitted back, the duty of the Commissioners in such case is confined to correct the very error for which such awards are so remitted back.

Your petitioners show that special provision is made by Section 11 of the Act for bringing the estate of John Winsloe, a lunatic, within the operations of the "Land Purchase Act, 1875," on the ground that doubts have been expressed whether the provisions of the said Act extend to or embrace such a case; what this Act terms a "doubt" your petitioners are informed is really a judicial decision of the Master of the Rolls of this Island.

Your petitioners learn that the Committee of the said lunatic on being notified by the Government under the Land Purchase Act, 1875, petitioned the Master of the Rolls (who has co-ordinate jurisdiction with the Chancellor concerning lunatics and

their estates) for the appointment of a Commissioner for said lunatic's estate, under the Land Purchase Act, 1875, and the Master of the Rolls gave a written decision or judgment deciding that the case was not within the provisions of the Statute. A copy of that judgment was served by the Lunatic's Committee or Trustee on the Commissioner of Public Lands. The Government took no steps to over-rule or appeal from the decision of the Master of the Rolls, but they now adopt the summary method of annulling that decision by an Act of Parliament.

Your petitioners also show that certain proprietors have been notified that their estates would be valued and taken under the provisions of the "Land Purchase Act, 1875," that such proprietors appointed Commissioners, and were in attendance at the Commissioners' Court with their witnesses, but the Court, in the fall of 1875, suspended its labors without hearing these cases, and it is now sought (see Section 13) to revive proceedings which have abated through the neglect of the Government without indemnifying such proprietors in their former or future costs.

In some instances when proceedings so abated the then owners or proprietors of land executed conveyances and made other legitimate dispositions of property and your petitioners submit that it would be unjust to revive these proceedings by means of an Act of Parliament and have these lands compulsorily assigned to the Government without notice to the persons who since the abatement of the proceedings have acquired them by purchase or conveyance.

Your petitioners cannot allow the 17th Section of the Act to pass without pointing out the extraordinary and dangerous effect sought to be given to deeds executed by the Public Trustee. It is well established that the Commissioners who appraise estates have no power to adjudicate upon titles. If the Commissioners appraise lands in which the proprietor has only a life interest (as in fact they have done) and the Public Trustee executes a deed of such lands to the Government, this section raises a presumption that such deed conveys an estate in fee simple; again, many occupants of lands, on estates hold lands by virtue of many years' occupation, but if this section becomes law, the deed of the Public Trustee will be *primâ facie* evidence that the grantee named in such deed and not the occupant of the land is seized in fee simple.

Your petitioners lastly show that many of the proceedings taken in Commissioners' Court, and which are pending and undetermined, are manifestly irregular, informal and invalid. And they submit that it is unusual and contrary to the course of British Legislation to correct mistakes and remove doubts in contested proceedings by one sided and retrospective legislation in the manner sought to be effected by this Act, and your petitioners pray that, in view of the exceptional, novel and dangerous nature of the provisions of the Act in question, Your Excellency will be pleased to prevent its becoming law, and your petitioners, as in duty bound, will ever pray.

JAMES F. MONTGOMERY,
JANE B. DOUSE,
ARABELLA DOUSE,
JOHN A. McDONELL,
J. P. DOUSE,
W. C. McDONALD,
REV. JOHN A. S. McDONALD,
by his Attorney.
ALEX. McLEAN,
EDWARD J. HODGSON,
HELEN JANE McDONALD.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 18th July, 1876.

The undersigned has the honor to report, that a Despatch from the Lieutenant-Governor of Prince Edward Island of the 12th May last, mentioned, for the conside-

ration of the Governor General, two Acts passed by the Legislature of the Province, as to one of which, relating to certain Departments of the Public Service, action has already been taken;

As to the other Bill so transmitted, it is intituled: "An Act to amend the Land Purchase Act, 1875," and was reserved by the Lieutenant-Governor for the signification of the Governor General's pleasure.

With the Despatch of the Lieutenant-Governor is a certified copy of the Bill so reserved, and the Report of the Attorney-General, giving his reasons for the passing of the same by the Council and Assembly.

The Lieutenant-Governor calls attention to the Attorney-General's Report, and his reasons therein stated for the passing of the Act, in which he (the Lieutenant-Governor) concurs, and he expresses his hope that it will receive His Excellency's consideration.

The Lieutenant-Governor adds, that as the Land Commissioners' Court stands adjourned until the 1st July next, it is very desirable that he should know His Excellency's pleasure as regards the Act in question previous to that period.

The Bill so reserved purports to be an amendment of the "Land Purchase Act, 1875," and recites that doubts have arisen as to the meaning and construction of many provisions of the "Land Purchase Act, 1875," and that it is highly expedient that all such doubts should be removed.

It then proceeds to enact that no award theretofore made, or thereafter to be made, shall be held void in any Court of Law or Equity, by reason that certain matters which were required by the Commissioners to be taken under consideration are not expressly mentioned in any award, and that no award shall be void for other reasons.

It also provides that nothing shall affect the rights of Miss Sullivan to purchase, whose estate is now pending before the Supreme Court of Canada.

The effect of the first portion of the Act appears to be that the interpretation of the Supreme Court of the Island of the Act of 1875, upon which certain awards of the Land Commissioners were held bad, is reversed, and the awards in question to be declared as valid.

Against the assent to this Bill, Mr. Edward J. Hodgson, by letter of the 8th June last, addressed to the Secretary of State, urges that the Bill in question very seriously affects the rights and the property of persons holding land in the Province. He represents that the Act is for the purpose of giving effect to certain awards considered to be void by those whose property is dealt with by them, and that the award, similar to those now attempted to be legalized, has been declared to be void by the Supreme Court of Prince Edward Island.

Mr. Hodgson further represents that there is another case pending of Miss H. McDonald of Montreal, and that if the Bill be assented to, it will have the effect of declaring the award to be valid, and not only so, but there are no provisions made for indemnifying her in the costs incurred by her in the proceedings she has instituted.

He also represents that further hardships will arise to individuals in case the Bill should become law; and he adds, that memorials, explaining the objections in questions, are being prepared, and requests that consideration of the Act may be delayed for an opportunity of considering the memorials referred to.

In the Report of the Attorney-General of Prince Edward Island it is represented that applications to the Supreme Court of the Island, were made on behalf of Miss Sullivan, and of the Hon. Ponsonby Fane, and the Court quashed the awards in both cases, but that negotiations for a peaceful settlement of the Fane estate are pending.

The undersigned has the honor, under the circumstances, to report that there does not appear to be any reservation in the Act of the rights of the Hon. Ponsonby Fane, or of any other parties as to whom awards may have been made, and who are similarly situated with Miss Sullivan and Mr. Fane, and who may have regarded the decisions of the Supreme Court of the Island, in the cases before them, as applicable to themselves.

That by telegraphic communication with the Lieutenant-Governor of the Province, it is ascertained that Mr. Fane's case has been settled and withdrawn from the Court, and that the only additional case pending before the Supreme Court of the Province on the 21st June last, is that of John Alister Macdonald, which is not yet tried, but in which a rule *nisi* has been granted by that Court to set aside the award, on the nineteenth of June last, to be tried at the sittings of that Court at Charlottetown, on the last Tuesday in June last.

But petitions have been presented at a later date (1) by Mr. Edward J. Hodgson before mentioned, and who describes himself as one of the proprietors of land, and also as Counsel for all the English proprietors, and nearly all those resident therein; and (2) from the following proprietors and owners of land in Prince Edward Island, viz.: James F. Montgomery, Jane B. Douse, Arabella Douse, John A. McDonnell, J. P. Douse, Rev. John A. S. McDonald, by his Attorney Alex. McLean, Edward J. Hodgson, Helen Jane McDonald and W. C. McDonald.

The allegations in the two petitions are substantially the same, and the petitioners pray that the assent of the Governor General in Council be not given to the reserved Bill in question.

It is stated:—

1. That it was notorious at the time of passing the Bill that the errors (in the Land Purchase Act of 1875) would be made the grounds of judicial applications to set aside the proceedings, and the awards founded upon them, whenever the Government attempted to enforce them.

2. That petitioners did not avail themselves within the period fixed by the Act of 1875, for remission back to the Commissioners of the Awards in their cases, relying on their ordinary right to oppose the awards, of which right the reserved Bill would deprive them; which also neglects to provide any means for remission of these irregular and erroneous awards to the Commissioners.

3. That the reserved Bill puts landowners to additional costs and expenses, but makes no provision for the refund of the same.

4. That the Commissioners' awards having neglected to specify the portion of the lands taken from the portion reserved, the owners are by the reserved Bill put to additional costs on proceedings before the Court, without provision for payment thereof.

5. A special complaint of Petitioner, James F. Montgomery, as to an error in his case, in respect of which he obtained an Order of Court for remission of the case back to the Commissioners; but the reserved Bill provides for a hearing of the case before other Commissioners and a new award; and that the provision in respect to other cases than his own is confined as to the point on which such other cases may be referred back.

6. That in the case of one, John Winsloe, a lunatic, the reserved Bill is practically to set aside a Judgment of the Master of the Rolls, deciding that the Land Purchase Act, 1875, did not apply to the estate of the lunatic.

7. That the proprietors whose claims were to have been heard by the first Commissioners, but which were not heard, and the proceedings as to which have abated through the neglect of the Government, have no indemnification as to their costs.

8. That the 17th Section gives an extraordinary and dangerous effect to Deeds executed by the public Trustee.

9. That many of the proceedings taken in the Commissioners' Court, and which are pending and undetermined, are manifestly irregular, informal and invalid; and that it is contrary to British Legislation to remove doubts in contested proceedings by retrospective legislation as sought to be effected by this Act.

The undersigned has the honor further to report:—

That without giving weight or consideration to any great extent to the allegations in the petitions which are unsupported by any actual proof, he is of opinion that the reserved Bill is retrospective in its effects; that it deals with rights of parties now in litigation under the Act which it is proposed to amend, or which may yet fairly form the subject of litigation; and that there is an absence of any provision saving the

rights and proceedings of persons whose properties have been dealt with under the Act of 1875.

He therefore recommends that the Bill, intituled: "An Act to amend the Land Purchase Act, 1875," do not receive the assent of the Governor General in Council.

R. W. SCOTT,
Acting Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 21*st July*, 1876.

The Committee of Council have had under consideration the Report, hereunto annexed, dated 18th July, 1876, from the Hon. Mr. Scott, acting in the absence of the Minister of Justice, relating to "An Act to amend the 'Land Purchase Act, 1875,'" passed in the Legislature of the Province of Prince Edward Island, and reserved by the Lieutenant-Governor for the signification of the Governor General's pleasure, and on the recommendation of the Hon. Mr. Scott, and for the reasons stated in his Report, the Committee advise that the Bill, intituled: "An Act to amend the 'Land Purchase Act, 1875,'" do not receive the assent of the Governor General in Council.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 17th October, 1876.

SIR,—I have the honor to transmit herewith, in duplicate, certified and sealed in the usual form, an Act intituled: "An Act to vest a certain portion of Government House Farm in the City of Charlottetown, for certain purposes therein mentioned," passed in the last Session of the Provincial Legislature, together with the late Attorney-General's observations explanatory thereof, and reasons assigned by him for its passing, which Act was reserved by me for the especial confirmation of His Excellency the Governor General.

This Act gives to the Corporation of the City of Charlottetown a larger area than did the Disallowance Act of 1873, and also, in addition, a width of 100 feet, extending along the shore in front of the land it permits to be retained for the use of Government House; with the view of elucidating the matter, I enclose a plan of Government House Farm, so called, on which is represented the portion of land taken from it by the Act now transmitted, as well as its relative position to the remainder of the grounds on which Government House is situate; and I like wise transmit a certificate from the surveyor who furnished it, stating the difference between the former and the present Act, as regards the quantity of land described in each. I also forward a certified copy of the grant, adverted to in the late Attorney-General's observations, under which the Government House grounds are now held and to which, apparently, the attention of His Excellency's Government had not been called previously to the making of the Order in Council of the 19th June, 1874, alluded to by the Attorney-General.

I think it necessary to remark that the Act now transmitted was not received by me from the late Attorney-General until the 9th instant.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Opinion of Mr. Attorney-General Brecken.

CHARLOTTETOWN, 1st September, 1876.

"An Act to vest a certain portion of Government House Farm in the City of Charlottetown, for certain purposes therein mentioned."

This Act was passed by the Legislature of this Province for the purpose of vesting in the City of Charlottetown the lands set forth and described in its 6th Section, being part of the Government House Farm of this Province, to be used and set apart for the purpose of a park and pleasure ground for the use of the inhabitants.

The tract of land now comprising Government House Farm was originally part of the common of Charlottetown, which was a portion of land surrounding the city dedicated to the use of the public.

In the year 1789, Edmund Fanning, Esquire, then Lieutenant-Governor of this Province, executed under the seal of the Province, a grant of that portion of the said commom now known as Government House Farm, therein described as containing one hundred acres, but now estimated to compose about eighty acres, to Lord Dorchester, the then Governor-General of Canada, for the accommodation of the Governor or Lieutenant Governor, for the time being, of the Province.

The citizens of Charlottetown having thus been deprived of the land referred to, and the remainder of the common having since been granted by the Crown to private individuals, the Provincial Government passed, in the Session of 1873, an Act similar in its objects to the one now under consideration, which Act was disallowed by the Imperial Government on account of its having been passed subsequently to the addresses of the Local Legislature expressing the desire of the Province to enter the Dominion—as set forth in the Report of a Committee of the Privy Council of Canada on the 3rd of April, 1874, and the Despatch of Earl Carnarvon to Lord Dufferin, dated 28th April, 1874.

After the disallowance of the said Act, namely, on the 19th of June, 1874, an Order in Council was passed by the Dominion Government, under the provisions of the 10th Section of the British North America Act, 1867, and the 8th Section of the 3rd Schedule attached thereto, that the Government House in Charlottetown, its grounds and premises, together wito the farm thereunto attached and held herewith, should be appropriated to the use of the Government and Legislature of this Province.

The Government and Legislature deeming the residue of the farm over and above the portion described in this Act, amply sufficient for the use of the Lieutenant Governor as a residence, have thought it desirable to declare that the land described in this Act should be appropriated to the purposes for which it was originally set apart.

The part so appropriated is that furthest from the city, and in order that the citizens might have easy access to the contemplated park, the Act provides in its 6th Section for the construction of a roadway or carriage-drive along the shore in front of that part of Government House grounds still reserved for a residence for the Lieutenant Governor.

The peculiar formation and slope of the grounds will enable this roadway to be built without in any way interfering with the privacy of Government House. Without such a roadway the only way of access to the park would be by the Brighton road, which runs along the rear of Government House grounds to Brighton shore. The contemplated roadway gives a much easier and shorter mode of access to the citizens, and for other reasons will be a great advantage to the park.

FREDERICK BRECKEN,

Attorney-General.

Surveyor's Certificate.

MEMORANDUM.

CHARLOTTETOWN, 13th October, 1876.

The area of Government Farm, from an actual survey by me in 1853, was 82 acres.

The area of land taken off by the Park Bill of 1873 was 40 acres.

The area of land taken off by the Park Bill of 1876 was 47 acres, inclusive of one and one-half acres reserved Ordnance Land, the property of the Dominion Government, being 45½ acres taken off Government Farm for Park purposes, inclusive of the Ordnance property.

There has been no actual survey made of Government Farm since 1853.

JOHN BALL,
Land Surveyor.

Copy of Grant.

To all whom these presents shall come,—*Greeting:*

EDMUND FANNING.

Whereas representation had been made unto me, Edmund Fanning, LL.D., Lieutenant-Governor and Commander in Chief in and over His Majesty's Island of St. John and the territories adjacent thereunto, &c., &c., &c., by many of the principal inhabitants of Charlottetown and the Island at large, that it would be attended with very beneficial and salutary public purposes if that tract of ground in the Royalty of Charlottetown aforesaid as a common should be laid out into pasture lots, and grants of the same given under certain limitations and restrictions, the said common being useless in its then waste and uncultivated state, and even considered as a nuisance and obstruction to the settlement of the Town; and whereas it did appear unto the said Lieutenant-Governor highly important to His Majesty's service and to the convenience and advantage of his future Governor, Lieutenant-Governor or the Commander in Chief of the said Island for the time being, that a certain portion or part of the said lands should be appropriated, and a grant thereof made under the Great Seal of the said Island, for the use and accommodation of His Majesty's Governor, Lieutenant-Governor or Commander in Chief for the time being, there not having been any reservation of land therefore made whereon to erect a Government House for the habitation and residence of His Majesty's Governor in any part of the said Island; I the said Edmund Fanning, did, upon the twenty-sixth day of February in the year of our Lord one thousand seven hundred and eighty-nine, refer the premises unto the consideration of His Majesty's Council of the said Island, requesting their opinion and advice thereon, who, at a subsequent meeting of the Board, namely, on the second day of March in the aforesaid year of Our Lord, did unanimously advise the aforesaid measure as eligible and expedient as in and by the Minutes of the proceeding of His Majesty's said Council (reference thereto being had) may at large appear. Now know ye that I, the said Edmund Fanning, as Lieutenant-Governor as aforesaid, by virtue of the power and authority in me vested by His Majesty King George the Third, have given, granted and confirmed, and do by these presents give, grant and confirm unto the Right Honorable Guy Lord Dorchester, Captain-General and Governor in Chief of the said Island of St. John, and in his or their absence from the said Island to the Lieutenant-Governor or Commander in Chief of the said Island for the time bieng, forever, one hundred acres of land, being part and parcel of that large tract of land so as aforesaid, formerly appropriated as a common, for their use and accommodation respectively as hereinbefore declared, which said

one hundred acres of land having such figure, description and shape as is delineated and expressed in and by a plan, a map thereof made and hereunto annexed, is bounded as follows, that is to say: northerly, on the several pasture lots of the said Royalty of Charlottetown distinguished on the General Plan or Map thereof by numbers, one, two and three; easterly, on a small creek; and all the other parts by the salt-water; to have and to hold the said one hundred acres of land with the appurtenances, unto the said Guy Lord Dorchester, Captain-General and Governor in Chief of the said Island of St. John, and the Captain-General and Governor of the said Island for the time being, and for their use and accommodation as aforesaid respectively, forever. In witness whereof I have signed these presents, and have caused the seal of the said Island to be thereunto affixed at Charlottetown aforesaid, this sixteenth day of May, in the twenty-ninth year of the reign of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France and Ireland, King Defender of the Faith, and so forth; and in the year of Our Lord one thousand seven hundred and eighty-nine.

By His Excellency's command.

THOS. DESBRISAY,

Secretary.

Registered, 4th November, 1793.

OFFICE OF THE REGISTRAR OF DEEDS, PRINCE EDWARD ISLAND.

I do hereby certify that the foregoing writing is a true and correct copy of a Grant from Lieutenant-Governor Fanning to the Right Honorable Guy Lord Dorchester registered in this office in Libra 6, folios 189, 190, 191, 192 and 193.

BENJ. DESBRISAY,

Registrar.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 20th October, 1876.

Upon the Statutes of the Legislature of Prince Edward Island, passed in 1876, 39 Victoria, the undersigned begs to report as follows:—

Chapters 1, 4, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 22, 23, 24, 25, 28, 29 and 30 do not appear to call for special observation or for the exercise of the power of disallowance.

Chapter 2.—"An Act regulating the sale by License of Spirituous Liquors."

The first Section of this Act requires a certificate from Justices of the Peace, with the view to the granting of a license.

The second Section provides that any Justice of the Peace who shall grant a false certificate shall incur for each offence a penalty of $50, or one month's imprisonment in default of payment. This would seem to be within the Criminal Law, and the word "offence" is, for reasons already stated, objectionable.

The Act contains certain provisions restrictive of the sale of intoxicating liquors referred to in reports on former Acts, but in reference to which no interference is recommended.

In the 7th Section the word "offence" is used.

The 16th Section provides that no liquors shall be sold or given by any person to any Indian, without a certificate from a clergyman or medical man, under a penalty of $10 for every offence, one-half of the fine to be paid to the informer and the other half to the Treasurer of the Province.

Upon this section the undersigned obtained the views of the Department of the Interior, which points out that the provisions of the section are in direct conflict with those of the Dominion Act passed last Session, both as regards the amount and disposition of the penalty imposed, and that it seems clear that local legislation, either in Prince Edward Island or elsewhere, on matters relating to the Indians, can hardly fail to cause great practical inconvenience and confusion, if not (as in the present case) actual conflict of laws.

Very full provision is made by the Canadian Act, 39th Vic., Chapter 18, 1876, respecting Indians, in the 79th and following Sections.

It seems obvious that there should not be double Legislation upon such a subject.

The undersigned recommends that the attention of the Lieutenant-Governor should be called to the objection to this section, with a suggestion that it should be repealed during the next Session, and before the time expires during which the Act can be disallowed.

Section 49.—This section provides that every person who obstructs, &c., any Constable in the performance of the duties imposed upon him by the Act, shall forfeit for every such offence a sum not less than five nor more than ten dollars. This seems to come within the Criminal Law.

By 32 and 33 Vic., Chap. 20, resisting, &c., an officer of the Peace in the due execution of his duty, is a misdemeanor.

Similar legislation in the case of the Province of Quebec has been, upon two occasions, remarked upon as objectionable.

The attention of the Lieutenant-Governor should be called to this section with a view to its amendment.

Section 52.—This section, which uses the term "offence," provides that it shall be the duty of the Grand Jury to make diligent enquiry and presentment of all and every such person or persons as shall be guilty of any breach of, or offence against, the provisions of the Act. Such presentment shall be deemed to be the commencement of a prosecution for the offence therein set forth.

The term "offence," as has been already observed, is objectionable, and still more so when applied to action required to be taken by the Grand Jury, which is to be the commencement of a prosecution.

The attention of the Lieutenant-Governor should be called to this section with the view to its amendment, so as to avoid any question of its trenching on the criminal procedure.

Sections 55, 58, 59.—The objectionable words "offence" and "offenders" are used in these sections.

Chapter 9.—"An Act to amend the Insolvent Debtors Act."

This Act repeals the second Section of the Act of the Legislature of Prince Edward Island, passed in the 14th Vic., chap. 2, and substitutes certain other provisions.

It contains a clause preventing its application to any debtor against whom proceedings shall be pending, under the Insolvent Act, 1875.

The use of the phrases "insolvent" and "insolvent debtor" is calculated to create embarrassment; the subject of insolvency being within the exclusive jurisdiction of Canada.

In this particular case the law which is amended is, perhaps, not, in the proper sense, an insolvent law; it is rather a law which mitigates the hardships of imprisonment for debt, by providing, under certain circumstances, for the discharge from gaol of persons imprisoned for debt, but it does not provide for the satisfaction of the debt or the general administration of the assets of the insolvent or his general discharge.

Provision for this purpose had been made by the Local Legislature prior to Confederation, by the Act of 1863, 31 Vic., Chap. 15, intituled: "An Act for the relief of unfortunate Debtors," amended by the Act of 1869, 32 Vic., Chap. 16. Such legislation as is affected by these last mentioned Acts, would, of course, be, since the Union, clearly *ultra vires* of the Local Legislature.

Legislation somewhat analogous to that now under consideration has taken place in some of the other Provinces, and the Statutes have been left to their operation. A similar course is recommended upon the present occasion; but the undersigned suggests that the attention of the Lieutenant-Governor should be called to the expediency of such legislation as may more accurately describe the object of the law and remove the objection which exists to the use of the words "insolvent" and "insolvency" as designating its subject-matter.

Chapter 16.—"An Act enabling the Stipendiary Magistrate of the City of Charlottetown to grant relief to Insolvent Debtors."

This Act enables the Stipendiary Magistrate to grant relief to debtors confined within the limits of Queen's County gaol, under the provisions of the Act 14 Vic., Chap. 2, referred to in the Report on Chapter 9, Acts of this Session.

To this Act the observations made with reference to Chapter 9 are applicable.

Chapter 17.—"An Act relating to Coroners' Inquests."

Upon this Act the undersigned would refer to the approved Report of his predecessor, of the 20th January, 1875, upon the Act of British Columbia, 37 Vic., No. 4, in which some doubt was expressed whether legislation on the procedure of Coroners' Inquests might not be a branch of Criminal Procedure, and as such within the sole Legislative competence of Canada. The late Minister, however, made no suggestion, and the Act was left to its operation, a course which the undersigned recommends should be followed upon the present occasion.

Chapter 21.—"An Act respecting the Town of Summerside."

In the latter part of the 4th Section the words "offence" and "offender" are used to describe cases of breach of Provincial Laws. It has already been repeatedly observed that it would be better to avoid the use of these words which rather indicate crime.

Chapter 26.—"An Act to incorporate the Acadia Provident Association."

By this Act certain persons are incorporated with authority to effect contracts of insurance with any person or corporation on life or lives, &c.

There is no limit to the range of the business, although the institution is to be a mutual one, and from the character of the business it is not likely that it will be more extensive than can be authorized by Provincial Legislation. It may be as well that some words should be inserted limiting its range, and the undersigned recommends that the attention of the Lieutenant-Governor should be directed to this point.

Chapter 27.—"An Act for the Incorporation of the Victoria Boring and Mining Company."

This Act incorporates certain persons under the given name, and provides that they shall have all the general power and privileges made incident to a Corporation by the Local Act, 15 Vic., Chap. 14, relating to corporate bodies.

The Act in no other way limits the powers of the Company, or the places, in which its operations are to be carried on.

The Act, 15 Vic., Chap. 14, does not contain any general limitation—even the name of the Company suggests no limitation. The powers of Local Legislatures to incorporate Companies are restricted to Companies with Provincial objects, and it appears to the undersigned that upon the principle on which several Acts of incorporation have been objected to this Act is open to objection, and he recommends that the attention of the Lieutenant-Governor should be called to it, with a suggestion that the Act should be amended by limiting the powers of the Company to Provincial objects during the next Session, and before the time arrives within which the question of its disallowance must be determined.

EDWARD BLAKE,

Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 14th November*, 1876.

The Committee of Council have had under consideration a Report dated 20th October, 1876, from the Hon. the Minister of Justice, upon the Statutes of the Legislature of the Province of Prince Edward Island, passed in 1876, 30th Victoria, and they concur in the several recommendations therein submitted and respectfully advise that the same be approved and acted on.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to the Secretary of State of Canada.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 30th November, 1876.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 2,367 on 1,801, of the 16th instant, transmitting, for the information of my Government, a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Hon. the Minister of Justice therein referred to, upon the Statutes of this Province passed in 1876.

Having at the earliest opportunity called the attention of my Government to the documents alluded to, and particularly to the suggestions of the Hon. the Minister of Justice contained in his Report, I have been assured by them that the Acts to which they severally relate shall be amended agreeably to such suggestions at the first meeting of the Provincial Legislature.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

Hon. the Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd December, 1876.

Upon the reserved Bill passed by both Houses of the Legislature of Prince Edward Island in the Session 1876, 39th Victoria, intituled: "An Act to vest a certain portion of Government House Farm in the City of Charlottetown, for certain purposes therein mentioned," the undersigned begs to report as follows:—

It appears from the Report of the Attorney-General that the tract of land now comprising Government House Farm was originally part of the Common of Charlottetown, which was a portion of land surrounding the city, dedicated to the use of the public. In the year 1789 the then Lieutenant-Governor executed a grant of that portion of the Common now known as the Government House Farm, therein described, now estimated to be composed of 80 acres, to Lord Dorchester, then Governor General of Canada, for the accommodation of the Governor or Lieutenant-Governor for the time being, &c.

In 1873, the Local Legislature passed an Act appropriating part (though not quite so large a part) of the Government House Farm to the purposes to which by the Bill now under consideration it is proposed to appropriate it. This Act was disallowed by the Imperial Government on account of its having been passed subse-

quently to the arrangements for Confederation under which the premises and buildings in question became the property of Canada.

On the 19th June, 1874, however, after Confederation was consummated, an Order in Council was made under the provisions of the 108th Section of the British North America Act, appropriating to the use of the Government and Legislature of the Province, the Government House in Charlottetown, and its grounds and premises, together with the farm in question.

It appears the Legislature deems the residue of the Farm over and above the portion described in the Bill, amply sufficient for the use of the Lieutenant-Governor as a residence.

The remaining area is 35 acres. The sole purpose to which the land taken is to be appropriated is that of a public park, promenade and pleasure ground.

Reference is made in the Bill to certain Ordnance lands which are expressly reserved from its operation.

The undersigned has made enquiry of the Department of Militia and Defence which reports that the reservation is sufficient.

Upon the merits of the Bill the undersigned referred to the Minister of Public Works, who reports that he had previously made enquiry into the subject, and is quite satisfied, from the explanations given to him that no injury would result to the Government House grounds by the proposed alienation; and, further, that he ascertained that the Lieutenant-Governor does not, as the present occupant, see any objection to the Bill being passed, and he is therefore of opinion that the Bill should be sanctioned. The former Act for the same purpose having been disallowed, it was proper that the Lieutenant-Governor should reserve this Bill; but, under the circumstances shortly stated, the undersigned recommends that His Excellency should be advised that the Bill should receive His Excellency's assent.

EDWARD BLAKE,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 8th December,* 1876.

The Committee of Council have had under consideration a Despatch, dated 17th October, 1876, from His Honor the Lieutenant-Governor of the Province of Prince Edward Island, transmitting an Act intituled: "An Act to vest a certain portion of Government House Farm in the City of Charlottetown, for certain purposes therein mentioned," passed in the last Session of the Provincial Legislature, together with the late Attorney-General's observations explanatory thereof, and reasons assigned by him for its passing, which Act was reserved by the Lieutenant-Governor for the special confirmation of His Excellency the Governor-General.

They have also had before them a Report, dated 2nd December, 1876, from the Hon. the Minister of Justice, to whom said Despatch, with enclosure, has been referred, and they concur in his recommendation that the Bill should receive Your Excellency's assent and submit the same for approval.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving Assent to Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Friday, 8th day of December, 1876.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas by an Act passed in the 31st year of Her Majesty's reign, intituled : "An Act for the Union of Canada, Nova Scotia, New Brunswick, and the Government thereof, and for purposes connected therewith," it is amongst other things enacted, that a Bill reserved for the signification of the pleasure of the Governor General, shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent; the Lieutenant-Governor signifies by Speech or Message to each of the Houses of the Legislature, or by Proclamation, that it has received the assent of the Governor General in Council ;

And whereas, on the 29th day of April, 1876, the Lieutenant-Governor of the Province of Prince Edward Island reserved a certain Bill, passed by the Legislative Council and Assembly of the said Province, intituled : "An Act to vest a certain portion of Government House Farm, in the City of Charlottetown, for certain purposes therein mentioned," for the signification of the Governor General's pleasure thereon ;

And, whereas, the said Bill so reserved, as aforesaid, has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to ;

Now, therefore, the Governor General, in pursuance of the said Act and in the exercise of the powers thereby reserved to the Governor General as aforesaid, doth, by this present order, by and with the advice of His Privy Council, declare His assent to the said Bill.

And the Secretary of State is to give the necessary directions herein accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 40TH VICTORIA, 1877.

1ST SESSION—27TH GENERAL ASSEMBLY.

Bishop of Charlottetown to Governor General.

CHARLOTTETOWN, PRINCE EDWARD ISLAND, 12th May, 1877.

MY LORD,—During the Session of the Legislature of this Province, which just closed, an Act dealing with Public Education has been passed. Against this Act I

protested, because of its suppression of French Acadian schools which, I deem, are protected under the 93rd Section of the British North America Act. Sir Robert Hodgson, the Lieutenant-Governor, while refraining from the exercise of his power to reserve the Bill for further consideration, assured me that my objections could be urged to, and would be considered by Your Excellency.

When I protested against the suppression of the French schools, I had not then seen the whole Act, for it had not been printed. Since then, and within the last few days, I have procured a copy, and upon giving it an attentive perusal, I find, to my great sorrow, that the Roman Catholics of this Province are virtually marked out, by exceptional Legislation, for heavy taxation, far over and above what must fall upon other religious denominations.

My Lord, I cannot allow this to pass without an appeal to Your Excellency to stay the operation of a measure so harsh and so oppressive. The reasons why Your Excellency is confidently appealed to, to protect the Roman Catholics of this Province against legislation directed against them, are embodied in memorials to Your Excellency. These are being rapidly signed throughout the Province, and in a week or two, I hope to lay them before Your Excellency. In the meantime, I venture to express the hope that Your Excellency will delay assenting to this measure until these objections be laid before you, expressing as they do, the deep sense of the wrong attempted to be done to nearly one-half of the population of this Island.

I have, &c.,

PETER McINTYRE,
Bishop of Charlottetown.

The Right Honorable the Earl of Dufferin.

Secretary of State to Lieutenant-Governor of Prince Edward Island.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 6th June, 1877.

Several petitions and communications on the subject of the recent Local Public School Act having been received, the Government request that a copy of the Act, accompanied by a Report with reference to the Act, be transmitted as early as possible.

In your letter of the 15th, transmitting certain documents in connection therewith, an assurance is given that the Act would be ready for transmission within a fortnight.

R. W. SCOTT,
Secretary of State.

The Lieutenant-Governor
of Prince Edward Island.

Secretary of State to Lieutenant-Governor of Prince Edward Island.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 9th June, 1877.

SIR,—Adverting to my letter of the 6th instant, I have the honor to transmit to you herewith, copies of two petitions—one from certain of the adult inhabitants of the Province of Prince Edward Island and the other from the French Acadian population of Prince Edward Island, accompanied by a copy of a Memorandum signed by His Lordship the Bishop of Charlottetown and the Rev. Dr. O'Brien,—praying for the disallowance of the Act passed by the Legislature of that Province, during its late Session, intituled: "The Public Schools Act, 1877."

I have to request that you will immediately bring these documents under the notice of your Government, with the view of eliciting from the Government such observations as they may choose to make on the petition and papers sent herwith.

I have, &c.,

R. W. SCOTT,
Secretary of State.

His Hon. the Lieutenant-Governor
of Prince Edward Island,

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 13th June, 1877.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. $\frac{1073}{675676}$ of the 9th instant, transmitting copies of two petitions, one from certain of the adult inhabitants of this Province, and the other from the French Acadian population of this Province, accompanied by a copy of a Memorandum signed by His Lordship the Bishop of Charlottetown and the Rev. Dr. O'Brien, praying for the disallowance of the Act passed during the Session of the Provincial Legislature, intituled: "The Public Schools Act, 1877," and requesting me to bring these documents immediately under the notice of my Government, with a view of eliciting from them such observations as they may choose to make upon such petitions and papers.

The absence of the Attorney-General, who is also the leader of my Government, attending the Fishery Commission in Halifax, precludes my calling their attention to this matter, until his return, when no time shall be lost in doing so.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Bishop of Charlottetown to the Governor General.

OTTAWA, 20th June, 1877.

MY LORD,—In addition to the memorials and other documents which I have already had the honor to transmit as well to Your Excellency as to the Secretary of State for Canada, I have now the honor to enclose to Your Excellency still further evidence showing that the Anglo-Rustico Schools of Prince Edward Island, which are to be suppressed by "The Public Schools Act, 1877" are, and always have been, separate, dissentient and denominational in their character.

I herewith enclose twenty-five certificates signed by the Teachers and Trustees of the Anglo-Rustico Schools, which show very clearly this fact, and earnestly deprecating their suppression.

I also have the honor to enclose a certificate signed by 442 of the inhabitants of Prince Edward Island in which they bear evidence that these schools have always been considered to be Catholic denominational schools.

I also enclose a copy of the 39th Section of the 15 Vic., Cap. 13 (Local Statutes of Prince Edward Island). It was under this Statute that the Anglo-Rustico Schools were first recognized by law, and I desire to call Your Excellency's attention to the fact that the teacher was not required to pass any examination before the Board of Education, but instead was required to produce a certificate from the Catholic Priest of his efficiency for teaching, and that it was necessary that such certificate should

contain a statement that he was a member of such Priest's congregation; Protestants were thus absolutely prohibited from teaching those schools. The law was not that the teacher might be, he must be, a Catholic.

The Act of 1868 which consolidated the then existing Education Laws repealed this section and substituted the provisions of Section 103 in its stead, which enacts that the Anglo-Rustico Schools "shall be continued as now in operation."

How these schools were then "in operation" is clearly shown by the enclosed certificates.

The only change made was that the teacher should pass the examination required by the Board of Education.

And now, My Lord, I feel that my task is completed. I have laid before Your Lordship what I venture to affirm to be evidence unanswerable and overwhelming, that these schools come within the letter and the spirit of the 93rd Section of the British North America Act, and I now await the result of Your Excellency's decision with an anxiety which I cannot conceal.

The general certificates signed by Protestants as well as Catholics, is not as numerously signed as it would have been had I had more time at my disposal; but I felt it might be satisfactory to your Lordship to have this additional evidence as soon as possible, and I lost not a moment in obtaining it. I left Ottawa on the inst., and since then I have travelled 2,450 miles, to accomplish this I travelled day and night, and my anxiety to return to Ottawa in the shortest possible time gave me but little space to have the certificate more generally attested. Had a longer delay been possible I could have presented it with thousands of signatures instead of with hundreds. But I felt that what I had procured was sufficient to prove the facts that are set forth in it, and I feared laying myself open to any imputation of delaying one single hour what I might sooner place before Your Excellency.

When I reached my Diocese, I saw all the teachers and masters whom it was possible for me to visit. On Sunday alone I rested, and then only to celebrate and set forth the mysteries of our Holy Faith, which are so cruelly attacked by this Bill. I only mention this to Your Excellency not as claiming any credit for what I have done, I could not do less, I feel, I may truly say, I could not have done more—I have endeavored to still the agitation of my people. I discountenanced all public meetings. I have sought to quiet their alarm. I hoped, and sought to impress the belief upon them, that Your Excellency, as the representative of the Queen's Majesty, would not lend the sanction of our Sovereign's approval to a Legislative enactment against our legally established Catholic Schools in which their children for so many years have been instructed in our Holy Faith.

And now, My Lord, I lay these documents, these proofs of our case, before Your Excellency, with the earnest hope that Your Excellency will be pleased to exercise the full power given to you by the constitution and disallow this illegal and unconstitutional measure.

I have, &c.,

PETER McINTYRE,

Bishop of Charlottetown.

His Excellency
The Governor General.

We, the undersigned inhabitants of the Province of Prince Edward Island do hereby certify that the Anglo-Rustico Schools, which have been recognized by or established under the Education Act of 1868, or the previous Acts consolidated by that Statute, are and always have been considered to be Catholic denominational Schools.

The Trustees and Teachers have always been Catholics, a lesson in the Cathechism was daily taught, and the books used were Catholic works of devotion and instruction, and were other than those prescribed by the Board of Education.

Some of the undersigned are not Catholics, but they cheerfully bear witness to the matters of fact set forth in the above statement.

PETER McINTYRE,
Bishop of Charlottetown.
DANIEL McDONALD, D.D.
Vicar General.
And others.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 25th June, 1877.

SIR,—At the instance of my Government, I have to request that the original petition against the Public Schools Act, 1877, with the signatures appended to it, may be transmitted to me for their inspection as they entertain grave doubts whether the signatures are those of adult male inhabitants of this Province.

My Government allege that they are materially strengthened in their doubts, from the facts that no reference was made to the petition in the public press, or any public meetings called upon the subject, whilst the individual members of the Government, residing as they do, in different sections of the Province, were entirely ignorant of any such petition being circulated for signatures.

Care will be taken that the petition is preserved and returned; should there be any insuperable objection (which my Government cannot believe to exist) to the transmission of the original documents, then they desire that a copy of the signatures attached to it may be forwarded.

Under the system established by the Imperial Government before Confederation, petitions against legislative enactments were required to be transmitted through the Lieutenant-Governor thus affording the Local Government the opportunity of forwarding with them such remarks and observations as they might deem advisable—a system which whilst doing ample justice to all, unquestionably prevented much unnecessary delay.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Lieutenant-Governor Hodgson to Secretary of State.

PROVINCE OF PRINCE EDWARD ISLAND,
GOVERNMENT HOUSE, 26th June, 1877.

SIR,—I have the honor to acknowledge the receipt of your Despatch No. $\frac{1161}{735}$, of the 22nd instant, transmitting, for the information of my Government and for report thereon, copy of a letter addressed to His Excellency the Governor General by His Lordship the Bishop of Charlottetown, in further reference to the Public School Act, 1877, also three of the certificates or memoranda, and also a copy of the certificate of 442 of the inhabitants of this Province referred to in His Lordship's letter, and stating that twenty-two other certificates similar to those first mentioned relating to other school sections have been submitted and are retained in your Department.

These documents, received this day, have been shown to the Leader of my Government, and, at his desire, I beg to request that you will be pleased to transmit a copy of the signatures appended to the certificate stated to be signed by Protestants as well as Catholics.

It is the intention of my Government to meet in Council on the 29th instant, when I am assured by the Leader, that their Report in reply to the Memorial against the Act, including those now acknowledged, will satisfactorily prove to His Excellency the Governor General that the grounds of opposition to the Act are without foundation.

As desired, these Memoranda shall be returned to your Department.

I have, &c.,

R. HODGSON,
Lieutenant Governor.

The Hon. Secretary of State.

The Hon. Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 30th June, 1877.

I recommend that a communication be addressed by the Secretary of State to the Lieutenant-Governor of Prince Edward Island, calling his attention to the fact that the information from his Attorney-General referred to in his letter of the 12th instant respecting the Public Schools Act, 1877, has not yet been received, and intimating that in accordance with a request from the Attorney-General, of Prince Edward Island, to the Minister of Public Works, a decision upon the matter has been delayed, pending the receipt of further communication- That it is therefore expected that no steps will be taken to actively enforce any of the provisions of the Act which may interfere with the various schools which the Roman Catholic Bishop of Charlottetown claims to be Roman Catholic Denominational Schools.

R. LAFLAMME,
Minister of Justice.

The Hon. Secretary of State.

Secretary of State to Lieutenant-Governor of Prince Edward Island.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 30th June, 1877.

SIR,—In compliance with the request contained in your Despatch, No. 24, of the 25th instant, I have the honor to transmit to you herewith the original petition against the Public Schools Act, 1877, of Prince Edward Island (a copy of which was transmitted to you with my letter of the 9th instant), with the signatures appended to it.

I may state that the petition did not profess to be exclusively from the male population of the Province of Prince Edward Island, nor was it so described in my letter enclosing a copy of it.

I have, &c.,

R. W. SCOTT,
Secretary of State.

His Honor
The Lieutenant-Governor
Prince Edward Island.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 5th July, 1877.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. $\frac{1193}{654}$, of the 30th ultimo, calling my attention to the fact, that the information from my Attorney-General, referred to in my Despatch of the 12th instant, respecting the Public Schools Act, 1877, has not been received, and intimating that a decision upon the matter has been delayed, pending the receipt of further communication, at the request of the Attorney-General preferred to the Honorable the Minister of Public Works, and stating that "it is therefore expected that no steps will be taken to actively enforce any of the provisions of the Act, which may interfere with the various schools which the Roman Catholic Bishop of Charlottetown claims to be Roman Catholic Denominational Schools."

I mailed to you, on the 3rd instant, a Minute of my Council, in reply to various objections raised by the Bishop and other petitioners specially relating to the schools called French Acadian Schools, which Minute affords the information referred to in my Despatch of the 12th instant.

Having called the attention of the Leader of my Government to your Despatch, I have been advised by him that the Act does not require any immediate active steps to be taken by the Government with reference to the schools claimed as Roman Catholic Denominational Schools unless the people fail to elect trustees, and the Chief Superintendent is called upon under the Act, to appoint them; but I am assured by him that, in so far as the Government and their officials are concerned, they are quite satisfied that, in accordance with the expectation you express upon this point, no actual interference should take place with these schools, until His Excellency the Governor General has had full opportunity for examining and considering the several documents and Statutes forwarded at the instance of my Government upon the subject.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Right Rev. Bishop McIntyre to Secretary of State.

CHARLOTTETOWN, P.E.I., 31st August, 1877.

SIR,—I have the honor to enclose a communication to His Excellency the Governor General in Council, regarding the Public Schools Act, 1877, which I beg may be laid before His Excellency in Council.

I have, &c.,

PETER McINTYRE,
Bishop of Charlottetown.

Hon. R. W. SCOTT,
Secretary of State for Canada.

Bishop of Charlottetown to Governor General.

To His Excellency the Right Honorable the Earl of Dufferin, Governor General of Canada.

MAY IT PLEASE YOUR EXCELLENCY:—

I beg Your Excellency's permission again to refer to the Public Schools Act, 1877, and my many memorials to Your Excellency regarding it.

I have laid before Your Excellency in Council evidence that the Acadian Schools, sought to be destroyed by this Statute, are protected by the British North America Act, and this evidence, I venture to say, is unanswerable.

I received from the Minister of Justice an assurance, that although a decision as to whether this measure was constitutional could not be come to by the first of July, yet, that "a communication had been addressed officially to the Lieutenant-Governor stating that it is expected that no steps will be taken to actively enforce any of the provisions of the Bill which may interfere with the various schools which you claim to be Roman Catholic Denominational Schools.

I hoped that the expressed wish of the Federal Government would not have been inoperative, but the Executive of the Province have refused to comply with the reasonable request of the Minister of Justice, and the consequence is that all the Acadian Schools in the Province are now closed.

My Lord, I think I may with fairness claim that I have waited very patiently. I knew my case was a righteous one, and that the law was on my side, and that, moreover, I had, and still have, as Your Lordship is not unaware, the open support and expressed sympathy of the whole Episcopate of Canada.

I have hitherto endeavored to quiet the alarm of my people and to still their agitation, for I was slow to believe that a great wrong would be done to the French people of my diocese.

But, my Lord, my waiting has been in vain, for I have had no answer to my memorial, and my prayer for justice has been as yet unheeded. Five months have elapsed since I forwarded my first petition, and my earnest hope that the guaranteed rights of my people should not be destroyed, has been long delayed. *Spes quo differtue, effligit animam.*

My duty to my people calls for something more than patient waiting, but before passing to those active measures which, strong in the justice of my cause, and in the moral support of right-thinking people, I feel called upon to adopt. I desire to make one last appeal to that sense of justice which I am unwilling to believe the Federal Government will allow to be obscured by considerations of expediency.

The French people of my diocese have been deprived of the religious instruction which they have enjoyed for a quarter of a century, and which is guaranteed to them by the constitution of Canada, and I have hitherto uttered no word of complaint except what has been submitted to Your Excellency through the Ministers of the Crown.

My Lord, is it too much to ask that I may be permitted respectfully to request a decision upon this very important matter? I am sure Your Excellency would not willingly prolong my great anxiety and the distress of my people. If it were for myself alone, or if private interests only were concerned, I should not press so strongly for a decision, that we may at least know our fate. For I do not conceal from Your Excellency that I am most anxious to learn whether the sanction of our Sovereign is to be given to a legislative enactment directed against the Roman Catholic faith, and whether rights guaranteed by the constitution are taken away, notwithstanding the protest of those to whom those rights are very dear.

I have, &.,

PETER McINTYRE,

Bishop of Charlottetown.

Petition of the Rev. Daniel J. Ellis, P.P., and others, to Governer General.

To His Excellency the Right Honorable Sir Frederick Temple, Earl of Dufferin, Governor General of Canada and Vice-Admi ral of the same:

The memorial of the undersigned adult inhabitants of the Province of Prince Edward Island,

HUMBLY SHEWETH:

That by an Act passed on the 18th day of April last, called "The Public Schools Act, 1877," provision is made for a system of public education throughout this Province.

That your Memorialists believe that education should not and cannot be separated from instruction in the verities of the Christian faith; and so believing they have, throughout the Province, at their own expense, built and maintained schools where secular teaching becomes education by being based upon religious instruction.

The Act before alluded to not only ignores these schools, but attempts to legalize a principle so harsh and unjust, that your Memorialists earnestly entreat Your Excellency to stay its operation.

Your Memorialists assure Your Excellency that they cannot withdraw their children from the schools which at so much expense to themselves they have erected, for they are restrained from doing so by the strength of convictions which they cannot overcome. They will, therefore, be compelled to pay for secular schools in addition to those which they feel bound to support.

They believe this to be an act of injustice to them which a majority possesses the power of imposing upon a minority, and, therefore, while they protest against it, they must submit. But in addition to this the Statute introduces a new and unheard of principle, for it in effect makes it a crime punishable by fine and imprisonment, for your Memorialists to send their children to their own schools rather than to those established under its provisions.

Sections 15 provides that unless the average attendance in a school district "shall be fifty per cent. of the children of school-age within the school district," that a deduction shall be made from the salary of the teacher.

Section 16 provides that such "deduction shall" be made up by and levied as a rate upon those parents who, by not sending their children to the schools, have caused the number of scholars to fall below the average required by Section 15.

The effect of these clauses will be this: If your Memorialists continue as they will continue to send their children to their own schools, and from such attendance the average of children attending the schools established under this Act should fall below fifty per cent., then, notwithstanding your Memorialists have paid their taxes into the Public Treasury, and that their children are attending efficient schools, built and maintained by themselves, notwithstanding this, they are to be fined because they will not withdraw their children from the religious teaching they prize so highly, to send them where all instruction in the Christian religion is by law carefully and rigorously excluded.

To ignore efficient schools because Christianity is taught in them, your Memorialits believe to be a grievous wrong; but to direct special legislation against them so as to blot them out of existence, is an act of injustice so oppressive that your Memorialists most respectfully appeal to Your Excellency that by exercising the power given you by the constitution, you may protect them against the operation of so unjust a law.

These schools are, as they were intended to be, an evidence of the ardent attachment of your Memorialists to their ancient faith, and this Statute enacts that they shall not send their children to them without the poor alternatives of fine or imprisonment.

Against this law and its cruel and unjust enactment, your Memorialists appeal to Your Excellency. They entreat Your Excellency to disallow it—to leave it to its operation would be to give the sanction of Her Majesty's approbation to a legislative

enactment directed against the Roman Catholic faith, by endeavoring to suppress educational establishments which, at great expense and with no little exertion and sacrifice, they have erected and maintained forthe education of their children.

And your Memorialists as in duty bound will ever pray.

DANIEL J. GILLIS, P.P., St. Andrews, PATRICK WALKER, J.P., M.L.C.,
STEPHEN PHELAN, C.C. JAMES A. E. McDONALD, P.P.,
And others.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 8th November, 1877.

In the last Session of the Local Legislature of Prince Edward Island, an Act was passed intituled: "The Public Schools Act, 1877."

This Act repeals all the previously existing laws on the same subject, and appoints a Board of Education composed of a Chief Superintendent (to be appointed by the Lieutenant-Governor), the members of the Executive Council, and the Principal of the Prince of Wales' College.

This Board is given power to establish Normal Schools, to appoint three Inspectors, each county constituting an Inspectoral District, to prescribe the qualifications for Inspectors and their duties, and to provide for the uniform certification of all candidates for the same, to divide the Province into School Districts, and to create new Districts or alter boundaries, to make regulations for the organization and the government and discipline of schools, for the classification of schools and teachers, and to appoint examiners of teachers, and to grant and cancel licenses, to prescribe text books and apparatus for the use of schools, and books for school libraries.

The Chief Superintendent is to have, subject to the Board of Education, the supervision and direction of the Inspectors and Schools, to enforce the provisions of the Act and the regulations and decisions of the Board of Education, to withhold all Provincial aid from districts presenting false or insufficient returns, &c., &c.

The duties of the Inspector are to visit, at least semi-annually, each school, to examine the schools and school houses, and to ascertain if the provisions of the School Law are there carried out, obeyed, &c., &c.

The Act provides that the support of the schools is to come from local assessment, and from assistance provided by the Provincial Treasury. The Act also regulates the salaries of teachers according to their respective qualifications, and Section 15 enacts that, "no teacher shall receive from the Provincial Treasury the salary herein provided according to his respective class or grade, unless the average attendance for the term during which he claims his salary shall be at least fifty per cent. of the children of school age within the School Distict, and made so to appear to the Chief Superintendent's satisfaction; and if such average daily attendance shall be less than fifty per cent a proportionate deduction shall be made from his salary for any deficiency.

Section 16 enacts, "In case such deduction shall at any time be made from any teacher's salary for the reason set forth in the preceeding section; the Chief Superintendent shall cause the fact and the amount of the deduction to be certified to the Trustees of the District who shall forthwith upon the receipt thereof levy an assessment upon the parties in the District, who have, by neglecting or refusing to send their children to school, caused the deficiency in the average attendance, and such assessment shall be distributed and paid in such proportion and amount by such persons as the Trustees in their absolute discretion may determine, but should it be proven to the satisfaction of the Trustees that such a deficiency was caused by sickness or other unavoidable causes, the Trustees shall be and they are hereby authorized to levy assessment on the District to meet such deduction in such manner as for other school purposes."

Section 40 enacts as follows:—

All School Districts, as registered at the time of the passing thereof, by the Board of Education, are hereby declared to be established and confirmed as School Districts until altered by the Board of Education constituted by this Act, and shall have all the rights and benefits of School Districts to be established under this Act, notwithstanding any errors, affects or irregularities in the establishing or registration of the same.

By the Act, Trustees to be nominated at School meetings, called for the purpose, in each district, on the first Tuesday of July in each year, shall decide what amount shall be raised for the support of teachers to supplement the same provided by the Province, and what sum shall be raised for the purchase of school houses, &c., and for general school provisions.

Three Trustees are to be appointed for each district.

Section 69 of the Act regulates the conditions under which the Board of Trustees shall employ teachers and the time for visiting school.

Section 92 is as follows:—

All schools conducted under the provisions of this Act shall be non-sectarian, and the Bible may be read in all such schools, and is hereby authorized, and the teachers are hereby required to open the school, on each school day, with the reading of the Sacred Scriptures by those children, whose parents or guardians desire it without comment, explanation or remark thereupon by the teacher, but, no children shall be required to attend during such reading as aforesaid, unless desired by their parents or guardians.'

After the passing of this Bill the Right Rev. Catholic Bishop, of Charlottetown, presented to His Honor the Lieutenant Governor, on the 17th April, 1877, a memorial requesting him to withhold his assent to the said Bill on the ground that it interfered with the rights of the Catholic community of the Province, as secured to them by the 93rd Section of the British North American Act, 1867.

His Honor the Lieutenant-Governor declined to interfere with the carrying out of the Bill, and transmitted this Memorial to His Excellency the Governor General of the Dominion.

The grounds of the Bishop's objection to the Act are, in substance, that a system of Separate Schools existed by law at the time of the Union of the Island and the Dominion of Canada, and that the right or privilege of the French-speaking portion of the Queen's subjects, in relation to education, were seriously affected; that by the Act, Cap. 6 of 31 Vic., Sec. 72, provision is made for the French-speaking population, directing the amount to be paid to teachers of other schools; and that this provision was repealed by the new Act; and that the new Bill will have the effect of closing the Separate Schools, which, for many years, have existed among the French.

His Lordship also addressed a Memorial to His Excellency the Governor General setting forth that be believed that education should not to separated from instruction in the Virtues of the Christian faith; that the Catholics of the Province had built and maintained schools based upon religious instruction; that the Act alluded to, ignored the existence of the Schools; that the Catholics could not withdraw their children from the Schools they had erected at great expense, and would, therefore be compelled to pay for Schools in addition to those which they felt bound to support; that in addition to this the Statute introduced a new principle, establishing a penalty by fine and imprisonment on such of the Catholics as would send their children to their own Schools, specially referring to Section 16, above cited, which inflicts a penalty for the non-attendance of children of school-age within the School District, and complained of the loss of these Schools and of the penalties inflicted on them as a consequence of non-attendance at a School established by law, as a grievous wrong and an attack upon their faith; and asked for the interference of the Governor General.

The Attorney-General of the Province forwarded a representation in support of the Act, and, in answer to the allegations of the Bishop of Charlottetown, in which he stated, in substance, that the system of education has always been, according to

the law of the Province, non-sectarian, that at one time small grants were voted annually towards several Sectarian Schools, but that, for years before Confederation they had been withdrawn, and that this non-sectarian character has been continued by the present Act which repealed the law of 1868.

In answer to Bishop McIntyre the Attorney-General states that he does not see that provision was made by the Act of 1868 for schools for the French-speaking portion of the population, and that Section 72 of that Act does not bear this interpretation; that this Section has been taken advantage of to a very limited extent throughout the Province, and he denies that these schools have the character of Separate Schools in any way different from the schools established by the last Act. He contends, at the same time, that these schools may continue under the provisions of this Statute as formerly; that the provisions of the former Act did, in no way, directly or indirectly, sanction any school as a Separate School in the sense in which religious views or tenets could legally be taught or books used, other than those authorized by the Board of Education; that the French population had no right or privilege which the new Act prejudicially affects.

The Attorney-General relies on the decision of the Privy Council, *in ex parte* Renaud, to show that there is no moral or legal right in the claim of the Bishop, and denies that the Roman Catholics of the Province are marked out by exceptional Legislation for taxation, over and above what must fall upon other religious denominations.

He encloses copies of the authorized list of school books, the only ones which could be legally used in a Public School up to this time, admitting, however, that the law, in this latter respect, had not, of late years, been in any way strictly adhered to or enforced.

The Executive Council further submitted, in support of the Act, a Memorandum, in which they make observations upon the statements contained in the Petitions and Memorials transmitted by His Lordship the Bishop of Charlottetown. They deny that there ever existed Separate Denominational Schools.

That their existence was never asserted in the Press or in the Legislation, as being supported at the Public Expense.

That no such schools actually exist or have existed for many years. They admit that in the French Schools, as well as in the Scotch and Irish Schools, books have been used which were not authorized by the Regulations of the Board of Education, but they contend that there existed no legal authority for the use of these books, and that their use was improper and illegal; that the fundamental principle of their school was exclusively non-sectarian.

The Memorial further states that the Bill was discussed at length in the Legislature without any haste in its passing, and that no protest or petition was ever presented and that during the length of debate which took place with respect to this Bill, not a hint was given of the existence of these Separate Denominational Schools.

The Council observe that the Catholic Bishop in his Petition assumes that the rights he claims are based solely upon the 72nd Section of the Act of 1868, which, they say, has been fully answered by the Attorney-General in his Report. The Council, in answer to the complaint made by the Bishop as to Sections 15 and 16 of the Act, claim the right of the Legislature to enact such provisions as will secure the attendance of children at school and are necessary for the proper securing of the objects of the Act, and to levy the difference of amount which otherwise would have been obtained to pay the teachers salaries.

In order to disclaim any intention of attacking the Roman Catholic section of the community, the memorial relies on Sub-section *m* of Section 93, which, they say, is expressly enacted to meet the cases where any denominations of Christians, Roman Catholics or Protestants have erected a school of their own, and to enable such school to participate in the public expenditure, provided it conforms in all respects to the public schools rules and regulations *during school hours*.

The Memorial denies, absolutely, the allegations contained in the Petition of the Bishop and of the Catholics, that there exists any class of denominational schools

recognized by law known as the Anglo-Rustico Schools, and that if they ever existed it was in defiance of the law and without the knowledge of the Government, admitting, however, that the law, with respect to the Books used in some of the schools attended by children of one denomination, had been to a limited extent evaded.

The Council in its Memorial allege that in the year 1875 a monster petition was presented to the Legislature of the Province signed by Bishop McIntyre and about nine thousand Roman Catholics, in which they prayed the Legislature to concede the very privileges they now boldly assert they, at the time and for years before, had legally possessed.

A copy of this Petition is forwarded with the Memorial, showing as they contend that the Catholics could not have supposed the existence of the rights they now profess to have.

They also refer to a Parliamentary Committee of the Session of 1876 appointed to investigate into the Educational Law, who by its Report showed that the law with respect to Books, had not been complied with in the French Acadian Schools, but without any affirmation of any legal rights as those claimed by the Bishop.

To the argument used by the Bishop, based upon the 39th Section of the 15th Vic., Chap. 13, that the Anglo-Rustico Schools were first recognized and had certain rights guaranteed to them which were recognized at the time of the passing of the Act of 1868 (31 Vic., Chap. 6) and sanctioned and legalized by the 103rd and 104th sections of that Act, the Council contend that those sections cannot bear such construction.

That there exist no schools in the Province known as the "Anglo-Rustico Schools," or so called in any of the Acts.

That the School Districts are registered by some particular name, one only of which is called and registered as the "Anglo-Rustico District," where the population are partly Acadian French and partly English. That these districts being very populous and one school being found insufficient, the Legislature, in 1864, by the 37th Vic., Chap. 31, authorized the Board of Education to establish two schools in that district.

That the Statute required that the teacher should be a duly licensed District School Teacher, and that both he *and the trustees of the school should comply with all the provisions of the law relating to education.*

That the 7th Section of this Statute authorized the Board to apply the same remedy to other districts found similarily circumstanced with the Anglo-Rustico District, in imposing the same condition to their establishment.

Such, according to the Memorandum, were the only reasons for establishing these schools in the Anglo-Rustico District, which were always subject to the law, both as to licensed teachers and otherwise.

That the 103rd Section of the Act of 1868 was intended to continue and confirm that state of things, and the 104th Section to allow the same remedy to districts similarly circumstanced. That these sections, 103 and 104, of the Act of 1868, are merely transcripts of Sections 6 and 7 of the Act of 1864, which was repealed by the Act of 1868.

That such schools had no legal privilege with regard to the books, teaching or system of education different from the other schools;

That one of the provisions of the Act of 1868, relating to Districts Teachers, is that the books prescribed by the Board of Education shall be used, and that any school where the Books, Regulations and system of education prescribed by the School Visitor shall not be used, shall be deprived of its allowance.

Referring to Section 101 it is contended that no teacher can receive any pay until he produces certificates that the provisions of the Act are, in all respects, being complied with. The Regulations sanctioned by the Board comprise the following: "No books of any kind shall be used in the school except those approved of by the Board of Education from time to time."

It is further alleged that no teacher has ever attempted, under this Act, to claim his salary without producing the necessary certificates from the Trustees of the District, that he has, in all respects, complied with the law. The Secretary of the Board of Education certifies that no other school was ever established of this character since the passing of the Act of 1868.

With reference to the schools of the Anglo-Rustico District which were in operation at the time the Act was passed, the Council state that they had not the character ascribed to them by the Bishop.

The Memorial affirms that they were not, at that date, in the same condition as in 1852, but that they had been by express Legislation swept away.

The Act of 1852 in its 39th Section recognized the French Acadian Schools in this respect only :—That if a French Acadian Teacher producing a certificate from the priest that he was a member of his Congregation and was capable of teaching certain branches to receive a certain salary, but did not sanction the use of any the prescribed books.

On the contrary, the 51st Section of that Act directed that the Board may withhold the allowance from any school not observing the Books, Regulations and System of Education prescribed by it.

In 1854 the Education Law was amended, and, by the 29th and 30th Sections, the French Acadian Teachers had their salaries raised £5 a year, and were obliged to open English classes for instruction in "reading, writing and arithmetic," failing which they were to be deprived of their allowance.

Next came a regulation of the Board of Education, passed in 1857, proscribing all books but those authorized by the Board, which regulation has, ever since, remained in force. In 1860 the law was again amended and the 3rd Section placed Acadian Teachers who passed the Board of Education examination and received a certificate, and complied with the requirements of the law, on the same footing as other Teachers. The 4th Section of the same Act provided that those Acadian Teachers who refused to be re-examined should have their salaries reduced to £35 per annum.

The 10th Section of the same Act fixed the number forty, as the total requisite number for each Acadian School, and if the average daily attendance did not amount to eighteen, a deduction should be made from the teacher's salary.

In 1861 the Education Laws were consolidated, all previous Acts being repealed. The clauses of previous Statutes relating to Acadian Teachers were re-enacted.

Those Acadian Teachers who passed the Board's examination were put on the some footing as all other teachers, and those who could not pass the Board were to receive a reduced salary. (See Sections 29, 31 and 32 of 24 Vic., Cap. 36.)

The 37th Section of the same Act authorizes the Board to withhold allowance from any School in which the books, regulations and system of education prescribed by the Board were not used and observed. (See Sec. 31 of 24th Vic., Chap. 36.) In 1863 the law was again amended by 26th Vic., Chap. 5, the 31st and other sections of the Act of 1861, recognizing the Acadian teachers as a distinct class, were repealed ; and by the 6th Section of the Act of 1863 the Legislature declared that it was inexpedient to grant the Government support any longer to Acadian teachers as such, abolished them as a separate class and any special privilege they may have enjoyed.

The Sections of the Act of 1861, conferring privileges upon them, were repealed, and since that time the Memorandum contends that the Acadian teacher, Acadian schools, as distinct from the ordinary schools ceased to exist, and if mention is made in the Act of 1868 of the Anglo-Rustico Schools the only reason was that one school was frequented by the English-speaking people, and the other by the French. The only power which was left to the priest or clergyman, after the passing of the Act of 1868, was that of visitor, enjoyed by clergymen of all denominations, also by Judges, Magistrates and Members of the Legislature under Section 53 of the Act of 1868. In conclusion the Memorandum refers to the decision of the Privy Council *ex parte* Renaud, as confirming their position,

The above Memorandum was communicated to the Bishop for his observation, and in answer he states: That he sees in the Minute of Council only three points:

1. That the claim about the Acadian Schools is a new one, for it was not made in the Legislature, nor in the press, nor in his Memorial of the 17th April, 1877, to Sir R. Hodgson, nor in the Catholic petition of 1875.

2. That Clauses 15 and 16, of the Public School Act, 1877, are not unfair and oppressive.

3. That there are no Acadian Separate Schools recognized by law.

For the answer to the last three points he refers to the Report of his Solicitor, which he appends, and on the first, in substance, he re-affirms the existence of these schools as being known to the whole community, and of the Executive Council, which fact he supports by reference to the Debates at the time of the passing of the Bill.

His Lordship explains the absence, in his petition to the Lieutenant-Governor, of the 17th April, 1877, of the grounds taken by him in his subsequent petition and memorial. His reasons are, that the Bill was being passed through hurriedly, and he had but a short time to prepare his objections.

That he was denied a copy of the Bill after repeated attempts to obtain one. On the fact alleged by the Memorandum that the petition presented by him and his people, to the number of nine thousand, did not mention the existence of this new clause regarding the rights of Catholics, His Lordship states that he had no reason to mention this, because it was then a well-known fact, and he asked, by his petition, to have a general system of education of sectarian principles, and that there was no necessity for calling the attention of the Legislature to the then existing Anglo-Rustico School.

In order to render any law of the Provincial Legislature inoperative under this section, it is requisite that there should, in such Province, have been, at the Union, denominations schools, with respect to which certain classes of persons had rights or privileges, and that those privileges should have been served by law.

To determine this question it is necessary, at once, to consider what law was in force at the time of the Union of Prince Edward Island, for the purpose of determining whether, within the meaning of the Sub-section 304 of Section 93, of the British North America Act, the French, or Roman Catholics of Prince Edward Island had, by such law, any right or privilege with respect to such denominational schools, and whether the last Act prejudicially affects such rights and privileges.

By the law of Prince Edward Island before the Union, in 1868, a new system of Education had been introduced, and all anterior Statutes were repealed. A Board of Education, composed of eleven persons, was appointed, and no schoolmaster or mistress was authorized to teach unless he or she received a license from the Board, after examination.

Visitors were appointed for defined districts, and a Board of five Trustees for each district was to be selected by the inhabitants of such district.

The law conferred on these Trustees the power to assess householders, being parents or guardians of children, and for the building or repairing of houses.

Section 72, upon which His Lordship the Bishop of Charlottetown relies in support of his contention, provided that a teacher who could teach French should receive £5 additional salary, provided the Trustees of such School District raised that sum for such teacher by supplementary subscription. All School Districts, as then registered by the Board of Education, previous to the passing of the Act, were established and confirmed as School Districts, and entitled to all the rights and benefits conferred by the Act, notwithstanding any want of former irregularity whatsoever in the mode of establishing such district, or in any other proceeding. Every school teacher was required to transmit to the Secretary of the Board of Education, a notice, stating the date at which he entered into his engagement, and the day of the opening of the school under his charge. The two most important clauses of this Act bearing upon the question, and insisted upon as creating or recognizing separate denomination schools, are Sections 103 and 104, which are as follows: The two schools which were established, and are now in operation, in the Anglo-Rustico District, on Township number twenty-four, in this Island (one school having been found insufficient to afford the means of education to all the children

therein), shall be continued as now in operation, and the Board of Education are hereby authorized to divide and alter the said district in such way and manner as they may deem expedient, so as to meet the exigency of the case, anything herein contained to the contrary notwithstanding; provided always, that no teacher appointed to take charge of any such school or schools in the said Anglo-Rustico District, shall at any time be recognized as a District Teacher, or be entitled to a salary, unless such person shall have obtained a license as a first or second class teacher from the Board of Education, and shall comply with the provisions of this Act relating to District Teachers.

In case any other established School District in this Island shall be found similarly circumstanced with the said District hereinbefore designated, the Anglo-Rustico District, it shall be in the power of the Board of Education to apply the same remedy in relation thereto, by dividing or altering the same and establishing an additional one therein, as is mentioned and set forth in the last preceding section, in regard to the said Anglo-Rustico District, and with the like restrictions in all respects as therein prescribed in regard to the teacher of any such additional school, being a duly licensed teacher and the teacher of his school shall conform in all respects to the provisions of this Act.

The grounds urged by the Bishop for the disallowance of this Act amount to the proposition that the Sections 103 and 104 recognize and allow the existence of schools under the name of Anglo-Rustico District Schools which were denominational by toleration and usage.

Upon a close examination of the sections referred to it is impossible to arrive at the conclusion that these schools were denominational by law.

Whatever may have been the course of instruction carried on in them, I find no provision in the law which could be interpreted as warranting the exemption of these schools from the enactments applying to the schools generally.

It must be observed that all previous laws were abolished by the Statute of 1868; that the only provision which can be invoked in support of the proposition that the Anglo-Rustico schools were denominational, is that these Sections, 103 and 104, mention them and allow them to be continued as thus in operation; but the reason mentioned for their continuance is not that they offered a different system of education, but because one school was found insufficient to afford the means of education, the law having established only one school for each district, and this exception being made to apply merely to a certain territorial division, the Board of Education being authorized to divide and alter the district so as to meet the exigency of the case. I find it impossible to discover in these two clauses anything which could justify the claim of the Bishop to secure the right to denominational teaching in such schools, as the section itself declares that no teacher shall take charge of any such school in the Anglo-Rustico District and be recognized as a district teacher, or entitled to a salary, unless he shall have obtained a license from the Board of Education, and shall comply with the provisions of the Act relating to District teachers.

Consequently, if such teacher is subject to all the regulations imposed by the law upon other teachers, I cannot see how they can assert their independence of the general provisions of the Statute. The latter portion of Section 104 seems to repel the possibility of any such interpretation as suggested by the Bishop. When allowing Trustees to establish other schools than those generally created by the Statute in one district, it preserves the same restrictions in regard to the teaching of such additional schools, and binds the Trustees to conform in all respects to the provisions of the Act. It, therefore, follows that even in the Anglo-Rustico District, the teachers were found to obtain their license and to comply with the provisions of the Act. The Trustees of such schools were also bound in all respects to conform to the law. The only reasons brought by the Bishop's Solicitor are, firstly, the fact that a different course of instruction was followed in these French schools, and, secondly, that the Board of Education and the public generally were aware of, and sanctioned the system, which was carried on independently of the provisions of the Statute.

This does not amount to a legal recognition of the existence of these schools. The laws having been passed in 1868, the time during which such a system was admitted or supposed to have been admitted, cannot amount to a usage having the legal effect of repealing a positive Statute. In other words the learned gentleman pretends that because the law was suspended in some instances by Trustees who were appointed and bound to see its execution, this would be equivalent to a special provision in the Statute allowing the system of such schools, or a repeal of any provisions which would prohibit the establising of separate or independent schools, such a proposition cannot be admitted as founded in law.

Taking for granted even the proposition of the Bishop that these schools were denominational in their teaching and in the course of education followed therein, tacit sanction of the Trustees and Board of Education since the passing of the Statute of 1868, this fact alone would not support the pretension that the last Act should be disallowed. It would only establish at most the fact that, notwithstanding the positive enactments of the Statute establishing a uniform system of education, non denominational in its character, a different system was tolerated.

The provision of the constitutional Act which secures to any Province a system of separate or dissentient schools requires as a condition of interference by the Federal authority to maintain that privilege, that these schools should be separate or dissentient in their nature by virtue of the law existing at the date which the Province joined the Union. It is not contended that there was any provision in any of the previous Acts of the Legislature of Prince Edward Island which secured to any sect the right of establishing an independent school. The Bishop himself does not allege in his Memorandum that such a provision existed in any of the Statutes. The reasoning of the argument of his Solicitor would therefore be that, although there was not in existence any statutory provision empowering the Catholic community to establish and maintain separate schools, and notwithstanding that there was in existence express statutory provision to the contrary, they could, because such schools had been virtually in operation, call on Federal Government to prevent the Legislature from establishing any regulation with respect to the schools generally, without securing to them the right of maintaining separate and denominational schools. Nothing can be found in the Statutes that justifies such a proposition. Reference has been made by the Bishop to the law existing previous to 1868 in Prince Edward Island. The last Statute on the subject previous to 1868 was Chapter 36, of 24th Victoria, 1861. There also all provisions inconsistent with the enactment were abolished. A Board of Education was constituted to regulate the admission of teachers and the practice and system of education to be observed. This Statute required also that every school teacher, whether Acadian or otherwise, should pass an examination by the Board of Education and receive a certificate of qualification. An exception, however, was made by the 31st Section, allowing the admission of Acadian teachers who had not been examined, to receive a reduced salary of £35, if he produced a certificate, signed by the Priest or Clergyman of the District or Parish wherein he taught, to the effect that he was capable of teaching, and that he had taught the number of scholars required, and had instructed one English class for three months previous to the granting of such certificate.

Section 37 of the same Act, however, declares that all schools claiming allowance to teachers under the Act wherein the books, regulations and system of education prescribed or to be prescribed by the school visitor and Board of Education to be observed are not observed or adopted shall, if the Board think fit, and make an order to that effect, be refused or deprived of such allowance until such time as such books, regulations and system of education shall be observed and adopted.

The preamble to this Act states that the laws now in force establishing a *system of free education* in the Island require consolidation and amendment. Thus so far back as 1861 the law did not recognize any system of separate and denominational schools. It is useless to go beyond that date; and it is impossible for the Bishop to find in any of the Acts from that date any provision from which could be inferred the right of any denomination to establish a separate or denominational school not

under control of the Board of Education. Great stress has been laid on Section 15 as imposing an unjust tax upon the parents neglecting or refusing to send their children to the District School, thereby causing a deficiency in the average attendance, and leaving absolutely to the discretion of the trustees, to determine the amount and to levy an assessment on the parties. This provision I consider to be severe and giving somewhat arbitrary power to trustees in fixing the penalty and in the selection of the offenders. It confers the power of levying an additional tax at the discretion of the trustees. The previous laws gave the right to the trustees to levy the amount of the deficiency *on the District* which necessarily comprised those who complied with, and those who refused to submit to the law. If we are bound to consider the right of regulating education as absolutely appertaining to each Province, except where the privilege of establishing separate schools existed by law, it must be admitted that they have equally the right to attach to the provisions of such laws the conditions and penalties required to secure its object; and however arbitrary or unjust the mode of enforcing it may appear, it would not seem proper for the Federal authority to attempt to interfere with the details or the accessories of a measure of the Local Legislature, the principles and objects of which are entirely within their province.

Inasmuch, however, as the provisions first referred to, which enable the trustees to levy the tax at their discretion, seems to depart in a measure from the well established principle that taxation should be *certain*, and so far as possible equally distributed, I recommend that the attention of the Lieutenant-Governor be called to such provisions, with a suggestion that they should be amended to meet the objections mentioned; but for the reasons above set out, I recommend that the Act itself be left to its operation.

R. LAFLAMME,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 14th November,* 1877.

The Committee of the Privy Council have had under consideration the Report from the Hon. the Minister of Justice, on the Act passed by the Legislature of the Province of Prince Edward Island, at its last Session, intituled: "The Public Schools Act, 1877," and for the reasons therein given they respectfully advise that the said Act be left to its operation and that a copy of the said Report and of this Minute be transmitted for the information of the Lieutenant-Governor of Prince Edward Island.

Certified.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 19th November, 1877.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 1,910, of the 15th instant, transmitting, for the information of my Government, copy of an Order of His Excellency the Governor General in Council, and of the Report of the Hon. the Minister of Justice therein referred to, on the subject of the Act passed by

the Legislature of this Province at its late Session, intituled: "The Public Schools Act, 1877."

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 22nd February, 1878.

SIR,—I have the honor to inform you that I have, this day, returned to you per book post, the original petition against the Public Schools Act, 1877, transmitted to me with your Despatch No. $\frac{11}{6}\frac{8}{7}\frac{8}{5}$ of the 30th June last.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 2nd May, 1878.

I beg to report upon the Statutes passed by the Legislature of the Province of Prince Edward Island, during the Session held in the year 1877, received by the Secretary of State on the 7th day of June, 1877, as follows:—

Cap. 1.—"The Public Schools Act, 1877."

This Act has already been reported upon by the Minister of Justice, and has been left to its operation.

Cap. 2.—"The Assessment Act, 1877."

Cap. 3.—"An Act respecting the Public Works."

Cap. 4.—"An Act relating to Roads and Bridges."

Cap. 5.—"An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and seventy-seven."

Cap. 6.—"An Act to amend 'The Seduction Act, 1876.'"

Cap. 7.—"An Act to amend 'The County Court Act.'"

Cap. 8.—"An Act to authorize the levying of an assessment for the year 1877."

Cap. 9.—"An Act to amend 'An Act relating to Public Wharves and Bridges.'"

Cap. 10.—"An Act relating to Judgments."

Cap. 11.—"An Act to amend certain Acts passed in the thirty-ninth year of Her Majesty's reign."

Cap. 12.—"An Act to continue and amend certain Acts therein mentioned."

Cap. 13.—"An Act to amend the Act 34 Vic., Cap. 14, intituled: 'An Act to authorize the issue of Treasury warrants, in sums exceeding one hundred pounds.'"

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 14.—"An Act to amend an Act to incorporate the Town of Charlottetown."

The fifth Section of this Act provides that on the last Tuesday of every month the Clerks of the Stipendiary Magistrates' Court shall account for, and pay into the hands of the City Treasurer, all fines or fees collected or received by him.

In reporting upon the Statutes of the Province of British Columbia, in the month of September last, I had occasion to consider the right of the Provincial Legislature to legislate in respect of the disposition of fines arising under the Criminal Law. The conclusion arrived at by that Report, which was approved of by Order in Council, was, that such fines belonged to the Dominion Government.

The section under consideration, therefore, so far as it relates to fines arising out of the Criminal Law, is beyond the power of the Local Legislature.

The Parliament of Canada was, by the Statute of 40th Vic., Cap. 4, which extends to the Province of Prince Edward Island certain Criminal Laws, now in force in other Provinces of Canada. Section eight expressly enacted that, "Fines collected under the Act respecting the trial and punishment of juvenile offenders, shall be paid over to the Provincial Secretary and Treasurer."

This Act is in direct conflict, so far as the fines mentioned therein are concerned, with the provisions of the Section now under consideration.

I recommend that the Lieutenant-Governor's attention be called to the matter with the request that he will bring it immediately to the notice of his Government, and before the time for disallowance of the Act arrives to communicate their reply, an intimation being at the same time given to him that unless at the next Session of the Local Legislature, his Government will promote the necessary legislation to repeal the section or to confine it to such fines as may arise through breach of any of the Provincial Laws, in respect of the matters coming within the exclusive legislative control of the Provincial Legislatures, the Act will be disallowed.

A Petition from the Mayor, certain common Councillors and inhabitants of Charlottetown has been received, praying that this Act, now under consideration may be disallowed, upon the ground that the Act exempts from assessment, persons paying rent less than $30 per year, and that this is an interference with the rights of the creditors of the city who lent the city money at a time when each citizen who paid a rental of $16 per annum was liable to be taxed; also, upon the ground that by the 3rd Section of the Act the control and management of the Police Force of the City are taken from the Mayor and Council, and the power of their dismissal given to the Stipendiary Magistrate, but the power of appointing is continued in the Mayor and Council. The Petition contends that it is improper and unjust to deprive the Mayor and Council of the control and management of the Police Force and to have the power of appointing in one body, and the power of dismissal in another, also upon the ground that the Stipendiary Magistrate is allowed by this Act to appoint a Clerk for his Court at a salary of $500 per annum; that this Clerk is superfluous and the City unnecessarily burdened with his salary.

I do not propose to discuss the expediency of the enactments referred to. The subject-matter appears to be entirely within the legislative authority of the Local Legislature, and I think the power of disallowance should not be exercised for any of the reasons mentioned in the Petition.

Objection is taken in the Petition to the provisions of the 9th Section, which transfers to a Licensing Board the power previously vested in the City Council respecting the granting of licenses for the sale of spirituous liquors, and which gives the Board power to provide for the inspection of liquors and the testing and analysis thereof.

It is contended that this provision is beyond the competency of the Local Legislature, or is unnecessary, as the subject has already been legislated upon by the Parliament of the Dominion (Statutes of Canada of 1874, p. 43.) The Section, however, appears to me unobjectionable from a constitutional point of view.

I cannot say that it is beyond the powers of a Local Legislature to provide merely for the inspection of liquors and the testing and analysis thereof. No provision is made as to the action to be taken upon such inspection or testing and analysis being made.

As the Section at present stands, the Board are simply given power to provide for the inspection, and testing and analysis.

This standing by itself appears to me to be unobjectionable.

This Act is also objected to upon the ground that this section takes from the City Council, the control over that part of their revenue derived from licenses for the sale of liquors, and that thereby the security of the creditors of the corporation is interfered with.

The matter, however, is one coming within the authority of the Local Legislature and it would not be proper in such a matter and for the reason given to exercise the power of disallowance.

Objection is also taken to the 21st Section, which provides that "the Licensing Board shall first determine on any application whether or not a license should be granted and their decision shall be final," and it is contended that the Licensing Board may thus wholly and absolutely forbid the sale of any liquor by license.

Much can be said in favor of this contention, and that the Section is therefore *ultra vires* as interfering with the requirements of trade and commerce.

Similar legislation, however, has been left to its operation in other Provinces, and I do not recommend the disallowance of the Act on account of this Section.

Cap. 16.—"An Act to alter and amend the Act to incorporate the Minister and Trustees of St. James' Church, Charlottetown."

The 5th Section of this Act give the corporation power to raise money by making and issuing bonds payable in a certain period with interest not exceeding six per cent. per annum; and the 8th Section declares, that if the interest or principal money of any said bonds should not be paid on demand, with such interest or principal respectively as demanded and overdue, shall bear interest, after such demand, at the rate of six per cent. per annum until paid.

This provision seems to entrench upon the subject of interest, which, by the provision of the British North America Act, comes within the exclusive legislative authority of the Parliament of Canada.

I recommend that the attention of the Lieutenant-Governor be called to it.

Cap. 17.—"An Act to authorize John Hughes to take the additional Christian name of Wellington."

Cap. 18.—"An Act to incorporate the Farmers' and Mechanics' Co-operative Association."

Cap. 19.—"An Act to incorporate the Kensington Hall Company."

To these Acts there appears to be no objection, and I recommend that they be left to their operation.

Cap. 20.—"The Registration of Electors and Ballot Act of Prince Edward Island, 1877."

Section 101 provides that whoever, at any time before, during, or after the following, shall—

"7. Forge or counterfeit, or fraudulently alter, deface, or destroy any ballot paper or the initials of the Sheriff or presiding officer signed thereon."

This provision clearly entrenches upon the Criminal Law so far as it relates to the counterfeiting or fraudulently altering any ballot paper, or the initials of the Sheriff or presiding officer.

I recommend that the attention of the Lieutenant-Governor be called to this provision with a request that legislation may be promoted for its repeal, or an amendment so as to obviate the objection refered to.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

R. LAFLAMME,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 4th May,* 1878.

The Committee of Council have had before them a Report, dated 2nd May, 1878, from the Hon. the Minister of Justice upon the Statutes passed by the Legislature of the Province of Prince Edward Island in the year 1877, and they concur in the views and recommendations therein submitted, and accordingly advise that the Acts reported as unobjectionable be left to their operation; that the attention of the Lieutenant-Governor of Prince Edward Island be called to the remarks submitted in the Report of the Minister of Justice, and with that view that a copy of said Report be transmitted to the Lieutenant-Governor.

W. A. HIMSWORTH,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 41ST VICTORIA, 1878.

2ND SESSION—27TH GENERAL ASSEMBLY.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 11th July, 1878.

SIR,—I have the honor to transmit herewith, in triplicate, duly sealed and certified, an Act intituled: "An Act to repeal certain Acts relating to the Church of England in this Province, and to make provisions in lieu thereof," passed by the Legislature of this Province in the late Session of the General Assembly.

Amongst the Acts repealed by this Act, is a permanent one passed in the year 1802, which declares the Liturgy of the Church, established by the Laws of England, shall be deemed the fixed form of worship in this Island, the Act transmitted therefore disestablishes the Church of England in this Province, and consequently interferes with the prerogative of the Sovereign as the Temporal Head of the Church, and it has no suspending clause. Under these circumstances I reserved the Act in question, which was not introduced by the Local Government, for the signification of His Excellency the Governor General's pleasure thereon.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th April, 1879.

I have the honor to report:—That a Bill was passed by the Legislature of the Province of Prince Edward Island in the year 1878, intituled: "An Act to repeal certain Acts relating to the Church of England in this Province and to make provision in lieu thereof."

This Bill was reserved by His Honor the Lieutenant-Governor for the signification of the pleasure of His Excellency the Governor General thereon.

Having perused the same, it appears to me that the Bill might well have been assented to by the Lieutenant-Governor, as its provisions seem to be purely of a Provincial character and unobjectionable in a constitutional point of view.

The Lieutenant-Governor in transmitting the Bill does not give his reasons for reserving it, and the only reason which I can suggest is that it repeals an Act passed in the forty-third year of the reign of the late King George III, Cap. 6, intituled: "An Act for the better and more effectual establishment of the Church of England in the Island."

The Lieutenant-Governor may have thought that it was an interference with Her Majesty's prerogative, and not within the legislative control of the Provincial Assembly to disestablish the Church of England in the Province. Except for this there would be no reason whatever for reserving the Bill, and I would have recommended that the course usually adopted with reference to local Bills reserved for the signification of the Governor General's pleasure thereon, which should not have been reserved, should be followed in this case, namely, that no action should be taken thereon.

But it is as well that no doubt should exist upon the matter. I think in this instance it would not be improper to recommend that the Bill be assented to. I therefore recommend that the assent of His Excellency the Governor General be given to the Bill.

I recommend further that the Lieutenant-Governor be informed that for the reason above mentioned, this case is looked upon as an exceptional one, and that it must not be regarded as a precedent with respect to other Bills entirely within the Legislative authority of the Provincial Legislature and in which no Dominion or Imperial interests are involved.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 14*th April*, 1879.

The Committee have had before them a Report, dated 14th April instant, from the Minister of Justice, on a Bill passed by the Legislative Assembly of the Province of Prince Edward Island, in the year 1878, intituled: "An Act to repeal certain Acts relating to the Church of England in this Province, and to make provisions in lieu thereof," which Bill was reserved by the Lieutenant-Governor for the signification of Your Excellency's pleasure thereon, and they respectfully advise that the said Report be approved and communicated to the Lieutenant-Governor for his information and guidance, and that Your Excellency's assent be given to the said Bill, as recommended in the said Report.

W. A. HIMSWORTH,
Clerk Privy Council.

Proclamation giving Assent to the Act above mentioned.

GOVERNMENT HOUSE, OTTAWA, Monday, 14th April, 1879.

Present :

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, by an Act passed in the 31st year of Her Majesty's reign, intituled : "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Governments thereof, and for purposes connected therewith," it is amongst other things enacted, that a Bill reserved for the signification of the pleasure of the Governor General shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies by speech or message to each of the Houses of the Legislature, or by proclamation, that it has received the assent of the Governor General in Council;

And, whereas, on the 15th day of July, 1878, the Lieutenant-Governor of the Province of Prince Edward Island reserved a certain Bill passed by the Legislative Council and Assembly of the said Province in the year 1878, intituled : "An Act to repeal certain Acts relating to the Church of England in this Province, and to make provisions in lieu thereof," for the signification of the Governor General's pleasure thereon;

And whereas the said Bill, so reserved, as aforesaid, has been laid before the Governor General in Council, and it is expedient that the said Bill should be assented to;

Now, therefore, the Governor General, in pursuance of the said Act and in exercise of the powers thereby reserved to the Governor General as aforesaid, doth by this present Order, by and with the advice of his Privy Council, declare his assent to the said Bill.

And the Secretary of State is to give the necessary directions herein accordingly.

W. A. HIMSWORTH,
Clerk Privy Council.

Lieutenant-Governor Hodgson to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 29th April, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 994 on 802 of 78, of the 17th instant, forwarding a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice therein referred to, on the subject of a Bill passed by the Legislature of this Province in the year 1878, intituled : "An Act to repeal certain Acts relating to the Church of England, and to make provisions in lieu thereof," reserved by me for the signification of His Excellency's pleasure thereon; and also the receipt of your Despatch, No. 1,110 on 802 of 78, of the 19th instant, transmitting an Order of His Excellency the Governor General in Council, signifying His Excellency's pleasure that the said Bill be left to its operation, and stating that the Order in Council had been published in the Canada *Gazette* of that date.

All these documents were handed to the Attorney-General and directions given to him to prepare the necessary messages to the Provincial Legislature, of Proclamation required under such circumstances by the British North America Act.

That Officer informs me that, in his opinion, I am precluded by the terms of that Act from announcing the assent of the Governor General to the Bill in question in consequence of notice of His Excellency's assent not having been received within the year of its presentation to me for my assent, and that, therefore, the Bill cannot have any force or effect.

I enclose you the Attorney-General's opinion on this subject.

If the Attorney-General is correct in his construction of the Act, in point of fact, it will only occasion a little delay without injury to any party; the Bill can be re-enacted at once, there will be no opposition, and His Excellency's opinion having been pronounced it can be assented to immediately after passing.

I shall be glad to be instructed as to my proper course of proceeding in this matter.

I have, &c.,

R. HODGSON,

Lieutenant-Governor.

The Honorable Secretary of State.

Report of Mr. Attorney-General Sullivan.

ATTORNEY-GENERAL'S OFFICE, PRINCE EDWARD ISLAND, 26th April, 1879.

SIR,—I have read the Despatch from the Secretary of State to your Honor, dated 17th April instant, transmitting Report of the Minister of Justice, on the Bill passed by the Legislature of this Province, in the Session of 1878, and reserved by you for the assent of His Excellency the Governor General, intituled: "An Act to repeal certain Acts relating to the Church of England in this Province, and to make provisions in lieu thereof," and, also, a copy of a Minute of the Privy Council of Canada, recommending that the assent of His Excellency the Governor General be given to the said Bill.

By the 57th and 90th Sections of the British North America Act, it is provided that a Bill, reserved for the signification of the Governor General's pleasure shall not have any force unless and until within one year from the day on which it was presented to the Lieutenant-Governor for the Governor General's assent, the Lieutenant-Governor signifies, by speech or message, to each House of the Legislature, or by proclamation, that it has received the assent of the Governor General in Council.

The Bill in question was presented to Your Honor for assent, on 18th April, 1878, and by you then reserved for the Governor General's assent, which was obtained on 14th April, 1879; the Despatch signifying that such assent had been given, was received by Your Honor on 22nd April, 1879, four days after the expiring of the year within which it was competent for Your Honor to have issued the proclamation referred to in the above quoted sections of the British North America Act.

I am of opinion, that notwithstanding the fact that the said Bill has received the assent of the Governor General, Your Honor is precluded, by the above quoted sections of the British North America Act, from announcing it to the Legislature, and that, therefore, the Bill cannot now have any force or effect.

I have, &c.,

W. W. SULLIVAN,

Attorney-General.

His Honor

Sir ROBERT HODGSON, Knight,

Lieutenant-Governor.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 15th May, 1879.

Upon the reference from the Secretary of State, with the Despatch from the Lieutenant-Governor of Prince Edward Island, respecting the reserved Bill, intituled: "An Act to repeal certain Acts relating to the Church of England, and to make certain provisions in lieu thereof;"

I recommend that the Lieutenant-Governor be informed that the course he suggests, namely, to have the Bill re-enacted and assented to at the next Session of the Local Legislature, appears to be a proper one to remove all doubts in the premises.

That as he did not transmit the Bill till July, 1878, and, in transmitting it, did not mention when it had been presented to him for his assent, it was thought that there was plenty of time within which to deal with it, and that in future it will be convenient if, in transmitting Bills which have been reserved, he will, in his Despatch, state the day upon which it was presented to him for assent.

Z. A. LASH,
Deputy Minister of Justice.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th June, 1879.

I have the honor to report upon the Acts passed by the Legislature of the Province of Prince Edward Island, in the year 1878, as follows:—

Cap. 1.—"An Act relating to accidents by fire in Alberton and for the removal of nuisances from the streets thereof."

Cap. 2.—"An Act to amend 'The Public Schools Act, 1877.'"

Cap. 3.—"An Act to amend 'The Assessment Act, 1877.'"

Cap. 4.—"An Act to authorize the levying of an assessment for the year 1878."

Cap. 5.—"An Act to amend 'An Act relating to Roads and Bridges.'"

Cap. 6.—"An Act to amend 'The Registration of Electors and Ballot Act of Prince Edward Island, 1877.'"

Cap. 7.—"An Act to amend the Act 23rd Victoria, Cap. 9, intituled: 'An Act for preventing frauds by secret Bills of Sale of personal chattels.'"

Cap. 8.—"The Domestic Animals Act, 1878.'"

Cap. 9.—"An Act to enable Trustees and others to convey estates to the Commissioner of Public Lands."

Cap. 10.—"The Chancery Amendment Act, 1878."

Cap. 11.—"An Act in amendment of the Laws relating to the appointment of Constables and Fence Viewers."

To these Acts there appears no objection, and I recommend that they be left to their operation.

Cap. 12.—"The County Courts Amendment Act, 1878."

I beg to call attention to the provisions of Section 61 of this Act, which gives to the Judge of the County Court a fee of 50 cents for taxing the costs in a suit. The principle involved in this legislation appears to me very objectionable.

The Judges of the County Courts are appointed by the Governor General under the 96th Section of the British North America Act, 1867, and by the 100th Section of that Act the salaries, allowances, and provisions of such Judges are to be fixed and provided by the Parliament of Canada.

The Parliament of Canada did fix and provide for the payment of the salaries and allowances, &c., of these Judges, and during the Session which has just closed an Act was passed placing these upon the same footing with regard to salary as the

other County Court Judges in the Dominion. The salaries being increased by the sum of $400 each.

A similar question came up in connection with an Act which was passed by the Legislature of Ontario in 1869, whereby the sum of $1,000 each per year was allowed to the Judges of the Superior Courts, payable out of the moneys of the Province.

The opinion of the Law Officers of the Crown in England as to the authority of the Provincial Legislature to pass such an Act was taken, and they gave it as their opinion that it was not competent for the Provincial Legislature to pass it.

On the 19th January, 1870, the then Minister of Justice reported upon the Act and recommended its disallowance. It was disallowed. The Minister of Justice at that time expressed his own opinion that the Judges of the Superior Courts could not properly and without a breach of the provisions of the British North America Act, receive emolument for performing the Judicial duties from any but the power which appoints and pays them the legal salary attached to their office.

It seems to me to be beyond the powers of the Local Legislature to allow to the Judges of the County Courts fees for performing their duties as such Judges, while they at the same time receive a fixed salary from the Dominion Government for the performance of those duties.

In a subsequent Session the Ontario Legislature passed another Act giving to each of the Judges of the Superior Courts the sum of $1,000 per year in addition to their salary.

This Act, though not specially reported upon, was not disallowed.

The principle of allowing Judges' fees for part of their judicial work, is much more objectionable than allowing them to be paid an additional salary from the Provincial Government.

The principle of paying Judges by fees was long ago found to be a vicious one, calculated to interfere with the independence of the Bench.

It may be said that it is not worth while interfering with the Act in question. The fee allowed to the Judge being so small and he being allowed it in respect of one service only in the suit. The matter, however, is one of principle rather than one of degree, and I think the Act should be disallowed, unless the Provincial Government undertake to promote Legislation at the next Session to repeal the objectionable part.

I recommend that the attention of the Lieutenant-Governor be called to these remarks, and that he be requested to submit the same for the immediate consideration of his Government with a view to a reply being given without delay.

Cap. 13.—"An Act to amend 'An Act regulating the Sale by License of Spirituous Liquors.'"

It may be that some of the provisions of this Act are an interference with the powers of the Dominion Parliament to regulate Trade and Commerce.

As, however, similar legislation has been left to its operation in the other Provinces, and as if the Act be *ultra vires* any person aggrieved may test its validity, I recommend that it be left to its operation.

Cap. 14.—"An Act to amend the Act twenty-fourth Victoria, Chapter thirty-four, intituled: 'An Act to repeal certain parts of the Act consolidating the Election Laws, and to make other provisions in lieu thereof.'"

Cap. 15.—"An Act to amend 'An Act to incorporate the Town of Summerside.'"

Cap. 16.—"An Act in amendment of an Act for rendering a written memorandum necessary to the validity of certain promises and engagements."

Cap. 17.—"An Act to amend an Act passed in the thirty-third year of the reign of Her present Majesty, Chapter seven, intituled: 'An Act to procure a steamboat for the Georgetown Ferry.'"

Cap. 18.—"An Act to alter and amend the Act relating to the Court for the recovery of small debts in the City of Charlottetown."

Cap. 19.—"An Act to continue a certain Act therein mentioned."

Cap. 20.—"An Act respecting special voting in amendment of the 'Registration of Electors and Ballot Act of Prince Edward Island, on thousand eight hundred and eventy-seven.'"

Cap. 21.—"An Act respecting the appropriation of fines collected by Stipendiary Magistrates."

Cap. 22.—"An Act respecting the Provincial Statutes."

Cap. 23.—"An Act relating to Physicians and Surgeons."

Cap. 24.—"An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord one thousand eight hundred and seventy-eight."

Cap. 25.—"An Act to incorporate 'Wildey Lodge, number twenty-seven, of the Independent Order of Oddfellows,' Charlottetown, Prince Edward Island."

Cap. 26.—"An Act to amend an Act, intituled: 'An Act to incorporate a Law Society.'"

Cap. 27.—"An Act to vest certain lands in the Trustees of Zion Church in Charlottetown."

Cap. 28.—"An Act to incorporate the Prince Edward Island Starch Manufacturing Company."

Cap. 29.—"An Act to revive and continue a certain Act therein mentioned."

Cap. 30.—"An Act to incorporate the Trustees of a body of Christians, calling themselves 'The Church of Christ,' at Charlottetown."

I recommend that these Acts be left to their operation.

Reserved Bill.

In addition to the above Acts, a Bill was passed, intituled: "An Act to incorporate the Provincial Grand Orange Lodge of Prince Edward Island, and the subordinate Lodges in connection therewith," which was reserved by His Honor the Lieutenant-Governor for the signification of His Excellency's pleasure thereon.

The Bill incorporates certain persons, and their associates, under the name of the "Provincial Grand Orange Lodge of Prince Edward Island," gives the corporation the usual powers incident to corporations, and makes certain provisions as to how subordinate lodges may become incorporated.

In 1873, two Bills were passed by the Legislature of Ontario, intituled: "An Act to incorporate the Loyal Orange Association of Western Ontario;"

And "An Act to incorporate the Loyal Orange Association of Eastern Ontario;" which were reserved by the Lieutenant-Governor for signification of His Excellency's pleasure thereon. Upon these Bills, the then Minister of Justice, Sir John A. Macdonald reports as follows:—

"That these Acts purport to incorporate two Provincial Associations. That the only object of these Associations appearing on the face of the Acts, is the holding of property, real and personal. That this being a Provincial object, the Acts are within the competence and jurisdiction of the Provincial Legislature.

"Such being the case, in the opinion of the undersigned, the Lieutenant-Governor of Ontario ought not to have reserved these Acts for Your Excellency's assent, but should have given his assent to them as Lieutenant-Governor.

"Under the system of Government that obtains in England as well as in the Dominion and its several Provinces, it is the duty of the advisers of the Executive to recommend every measure that has passed the Legislature for the Executive assent.

"The provision in the British North America Act, 1867, 'That Your Excellency may reserve a Bill for the signification of Her Majesty's pleasure,' was solely made with a view to protection of Imperial interests, and the maintenance of Imperial policy, and if Your Excellency should exercise the power of reservation conferred on you, you would do so in your capacity as an Imperial officer and under Royal instructions.

"So in any Province the Lieutenant-Governor should only reserve a Bill in his capacity as an Officer of the Dominion and under instructions from the Governor General.

"The Ministers of the Governor General and of the Lieutenant-Governor are alike bound to oppose, in the Legislature, measures of which they disapprove, and if, notwithstanding, such a measure is carried, the Ministry should either resign or accept the decision of the Legislature and advise the passage of the Bill.

"It then rests with the Governor General or the Lieutenant-Governor, as the case may be, to consider whether the Act conflicts with his instructions, or his duty, as an Imperial or a Dominion officer, and if it does so conflict, he is bound to reserve it, whatever the advice tendered to him may be, but if not, he will doubtless feel it his duty, to give his assent in accordance with advice to that effect, which it was the duty of his Ministers to give.

"With respect to the present measures, the undersigned is of opinion that the Lieutenant-Governor ought to have reserved them for Your Excellency's assent, as he had no instructions from the Governor General in any way affecting these Bills.

"They are entirely within the competence of the Ontario Legislature, and if he had sought advice from his legal adviser, the Attorney-General of Ontario, on the question of competence, he would undoubtedly have received his opinion, that the Acts were within the jurisdiction of the Provincial Legislature.

"This is evident from the fact that, as appears by Votes and Proceedings of the Legislature, the Attorney-General voted and supported the Bills as a member of the Legislature.

"Under these circumstances the undersigned recommends that the Lieutenant-Governor be informed that Your Excellency does not propose to signify your pleasure with respect to these reserved Acts or to take any action upon them.

"If the Acts should again be passed, the Lieutenant-Governor should consider himself bound to deal with them at once, and not ask Your Excellency to intervene in matters of Provincial concern and solely and entirely within the jurisdiction and competence of the Legislature of the Province.

"The reserved Bill, under consideration, is of precisely the same nature as the Bills passed by the Ontario Legislature, and the remarks above quoted apply thereto. For these reasons it would not have been proper to recommend that the assent of His Excellency should be given to it."

I recommend that the substance of the foregoing remarks be communicated to the Lieutenant-Governor.

Z. A. LASH,
Deputy Minister of Justice.

I concur.

JAS. McDONALD,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 25th June*, 1879.

On a Report, dated 14th June, 1879, from the Honorable the Minister of Justice, upon the Acts passed by the Legislature of the Province of Prince Edward Island, in the year 1878, including a reserved Bill, intituled: "An Act to incorporate the Provincial Grand Orange Lodge of Prince Edward Island, and the subordinate Lodges in connection therewith," and they advise that the recommendations submitted in said Report be approved and carried into effect.

W. A. HIMSWORTH,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor of Prince Edward Island.

DEPARTMENT OF THE SECRETARY OF STATE, OTTAWA, 2nd July, 1879.

SIR,—I have the honor to transmit to you herewith, for the information of your Government, a copy of an Order of His Excellency the Governor General in Council,

and of the Report of the Honorable the Minister of Justice therein referred to, having reference to the Acts passed by the Legislature of the Province of Prince Edward Island in the year 1878, including a reserved Bill, intituled: "An Act to incorporate the Provincial Grand Orange Lodge of Prince Edward Island and the subordinate Lodges connected therewith."

You are requested to reply by telegraph in reference to the objectionable clause respecting the County Courts.

J. C. AIKINS,
Secretary of State.

His Honor
The Lieutenant-Governor
of PrinceEdward Island.

By Telegraph from Charlottetown, P. E. I., to Secretary of State.

CHARLOTTETOWN, 8th July, 1879.

I am assured by Leader of Government that Legislation will be adopted next Session to repeal objectionable clause in County Courts Act.

R. HODGSON,
Lieutenant-Governor.

Lieutenant-Governor of Prince Edward Island to Secretary of State.

GOVERNMENT HOUSE, PRINCE EDWARD ISLAND, 8th July, 1879.

SIR,—I have the honor to acknowledge the receipt of your Despatch, No. 1780 on 1,159 of the 2nd instant, transmitting, for the information of my Government, a copy of an Order of His Excellency the Governor General in Council, and of the Report of the Honorable the Minister of Justice, therein referred to, having reference to the Acts passed by the Legislature of this Province in the year 1878, including a reserved Bill, intituled: "An Act to incorporate the Provincial Grand Orange Lodge of Prince Edward Island and the subordinate Lodges in connection therewith," and requesting me to reply by telegraph in reference to the objectionable clause in the Act respecting County Courts.

I am assured by the Leader of the Government that Legislation will be adopted next Session to repeal the objectionable clause in the County Courts Act, and I have this day transmitted to you a telegram to this effect.

I have, &c.,

R. HODGSON,
Lieutenant-Governor.

The Hon. Secretary of State.

Deputy Minister of Justice to Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 11th July, 1879.

I have the honor to request that the Lieutenant-Governor of Prince Edward Island may be informed that, relying upon the assurance contained in his telegram

that the objectionable clause in the Act respecting the County Courts will be amended next Session, the Act referred to will, in accordance with the terms of the Report approved already by Council, be left to its operation.

Z. A. LASH,
Deputy Minister of Justice.

The Hon. Secretary of State.

PRINCE EDWARD ISLAND, 42ND VICTORIA, 1879.

1ST SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 6th April, 1881.

I have the honor to report upon the Acts passed by the Legislature of the Province of Prince Edward Island, in the forty-second year of Her Majesty's reign, as follows, namely :—

Cap. 1. "The Public Roads Act, 1879."

Cap. 2. "An Act to repeal 'The Registration of Electors and Ballot Act of Prince Edward Island,' with its amending Acts, to revive certain Acts and Parts of Acts and make other provisions respecting Elections."

Cap. 3. "An Act to amalgamate the Prince of Wales College and Provincial Normal School."

Cap. 4. "An Act to amend the Public Schools Act, 1877."

Cap. 5. "An Act respecting certain Departments of the Public Service."

Cap. 6. "An Act to further amend an Act regulating the sale by License of Spirituous Liquors."

Cap. 7. "An Act for the protection of Game and fur-bearing Animals."

Cap. 8. "The Mechanics' Lien Act."

Cap. 9. "The Court of Chancery Amendment Act, 1879."

Cap. 10. "An Act to amend 'The Assessment Act, 1877,' "

Cap. 11. "The Surrogate and Probate Fees Act."

Cap. 12. "An Act to amend the Law of Arbitration."

Cap. 13. "An Act to amend the Act further securing the Independence of the General Assembly."

Cap. 14. "An Act to amend 'An Act relating to Lunatics and to the Custody of Lunatics.' "

Cap. 15. "An Act respecting arrest and imprisonment for Debt."

Cap. 16. "The Indigent Debtor's Act."

Cap. 17. "The Public Inquiries Act."

Cap. 18. "An Act to authorize the levying of an Assessment for the year 1879."

Cap. 19. "An Act to repeal certain Acts relsting to the Church of England, in this Province, and to make provision in lieu thereof."

Cap. 20. "An Act to continue a certain Act therein mentioned."

Cap. 21. "An Act for appropriating certain moneys therein mentioned for the service of the year of Our Lord one thousand eight hundred and seventy-nine."

Cap. 22. "An Act to repeal Section forty-nine of an Act intituled: 'An Act respecting the Public Works.'"

Cap. 23. "An Act to incorporate St. Patrick's Total Abstinence and Benevolent Society of Charlottetown."

Cap. 24. "An Act to amend 'An Act to incorporate the Minister and Trustees of St. Columba's Church, Blair-in-Athol, St. Peter's Road, Township Number thirty-four."

I recommend that the power of disallowance be not exercised with respect to these Acts.

JAS. McDONALD,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th April*, 1881.

On a Report dated 6th April, 1881, from the Hon. the Minister of Justice, upon the Acts passed by the Legislature of the Province of Prince Edward Island, in the 42nd year of Her Majesty's reign, from Chapter 1 to Chapter 26 inclusive;

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to these Acts.

Certified.

J. O. COTÉ,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 43RD VICTORIA, 1880.

2ND SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 11th November, 1881.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon the Acts passed by the Legislature of the Province of Prince Edward Island in the year 1880, received by the Secretary of State on the 14th day of December, 1880, as follows:—

Cap. 1.—"An Act to amend 'The Public Roads Act, 1879.'"

Cap. 2.—"The Jury Amendment Act, 1880."

Cap. 3.—"An Act to amend 'The County Courts Amendment Act, 1878.'"

Cap. 4.—"An Act to regulate fees payable under Official Seals."

Cap. 5.—"An Act to amend 'The Common Law Procedure Act, 1873.'"

Cap. 6.—"An Act to facilitate the conveyance of real estate by married women."

Cap. 7.—"An Act to enable Executors and Administrators of Mortgages to sell and convey mortgaged premises."

Cap. 8.—"An Act to confirm certain Writs, issued out of the Supreme Court of Judicature, and proceedings had thereunder."

Cap. 9.—"An Act respecting Public Officers."

Cap. 10.—"An Act in further amendment of the Law and for the better advancement of Justice."

Cap. 11—"An Act to authorize the levying of an Assessment for the year 1880."

Cap. 12.—"An Act for appropriating certain moneys therein mentioned, for the service of the year of Our Lord one thousand eight hundred and eighty."

The above Acts do not seem to call for any special remark, or for exercise of the power of disallowance. I recommend that they be left to their operation.

Cap. 13.—"An Act to amend an Act regulating the sale by License of Spirituous Liquors."

The undersigned recommends that the power of disallowance be not exercised with respect to this Act, but desires to remark that some of its provisions may be held to be beyond the Legislative authority of the Provincial Legislature as encroaching upon the regulation of trade and commerce, but as the precise extent of the authority of Parliament and of the Provincial Legislature over the subject-matter has not yet been finally determined, and as legislation of a similar character in other Provinces has been left to its operation, the undersigned recommends that the power of disallowance be not exercised with respect to this Act.

Cap. 14.—"An Act to authorize the Government to sell the Government Pew in Saint Paul's Church, Charlottetown."

Cap, 15.—"An Act to amend the Act of the eighteenth Victoria, Chapter thirty-four, intituled: 'An Act to incorporate the Town of Charlottetown,' and all Acts amending the same."

Cap. 16.—An Act to Amend an Act to incorporate the Town of Summerside."

Cap. 17.—"An Act to authorize the *Examiner* Printing and Publishing Company to increase its Capital Stock."

Cap. 18.—"An Act to vest the lands belonging to the Trustees of St. Dunstan's College in the Roman Catholic Episcopal Corporation of the Diocese of Charlottetown."

Cap. 19.—"An Act to amend an Act intituled: 'An Act for the incorporation of the Charlottetown Cemetery Company.'"

Cap. 20—"An Act to amend 'An Act to incorporate the Minister and Trustees of the Presbyterian Church, Brookfield, Township Number twenty-three.'"

Cap. 21.—"An Act to amend 'An Act to incorporate the Minister and Trustees of the Presbyterian Church of Cascumpec.'"

Cap. 22.—"An Act to incorporate the Minister and Trustees of the Presbyterian Church of West Cape."

Cap. 23.—"An Act to incorporate 'The Prince Edward Island Poultry Association.'"

Cap. 24.—"An Act to further amend 'The County Courts Amendment Act, 1878.'"

These Acts do not seem to call for any special remark, or for the exercise of the power of disallowance. I recommend that they be left to their operation.

A. CAMPBELL,
Minister of Justice.

COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Government in Council on the 17th November*, 1881.

On a Memorandum, dated 11th November, 1881, from the Minister of Justice, reporting with respect to the Acts passed by the Legislature of the Province of Prince Edward Island, in the year 1880, and recommending that the power of disallowance be not exercised with respect to any of the said Acts, being Cap. 1 to Cap. 24 inclusively;

The Committee submit the above recommendation for Your Excellency's approval.

J. O. COTÉ,
Clerk Privy Council.

Secretary of State to Lieutenant-Governor of Prince Edward Island.

OTTAWA, 21st November, 1881,

SIR,—With reference to the Statutes passed by the Legislature of Prince Edward Island, in the year 1880, being Cap. 1 to Cap. 24 inclusively, enclosed in your Despatch, No. 46, of the 8th December of that year, I have the honor to acquaint you, for the information of your Government, that His Excellency the Administrator of the Governor in Council has been pleased to order that the power of disallowance be not exercised with respect to any of the said Acts.

I have, &c.,

HECTOR L. LANGEVIN,
For Secretary of State.

His Honor
The Lieutenant-Governor
of Prince Edward Island.

PRINCE EDWARD ISLAND, 44TH VICTORIA, 1881.

3RD SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th November, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report that he has had under consideration the Acts of the General Assembly of the Province of Prince Edward Island, passed

in the year 1881; and he recommends that the power of disallowance be not exercised in regard to the following Acts, namely:—

Chap. 1. An Act respecting Dogs.

Chap. 2. An Act to amend the Domestic Animals Act, 1878.

Chap. 3. An Act further to amend the Act to regulate the Registry of Deeds and Instruments relating to the Title to Land and to repeal the Laws heretofore passed for that purpose.

Chap. 4. An Act respecting the Garnishment of Debts.

Chap. 5. An Act to amend the Intestacy Act, 1873.

Chap. 6. An Act to amend the laws regulating the laying out, altering, and closing of Highways.

Chap. 7. An Act respecting Evidence and Practice in the Supreme Court.

Chap. 8. An Act to establish Steam Ferries at Cardigan and Bedeque.

Chap. 9. An Act to regulate the management of the Government Stock Farm.

Chap. 10. An Act respecting Trustees and Executors.

Chap. 11. An Act relating to Factories in Prince Edward Island, other than in any City therein.

Chap. 12. An Act to amend an Act to protect the rights of Married Women in certain cases.

Chap. 13. An Act respecting Deeds executed by the "Public Trestee" under the Land Purchase Act, 1875.

Chap. 14. An Act to confirm the registration of Deeds executed to "The Commissioners of Public Lands."

Chap. 15. An Act respecting the Lands purchased by the Government.

Chap. 16. An Act respecting the Court of Chancery.

Chap. 17. An Act to authorize the Master of the Rolls and Vice-Chancellor to appoint Officers of the Court of Chancery.

Chap. 18. An Act to amend an Act for appointing Commissioners of Sewers.

Chap. 20. An Act to continue an Act therein mentioned.

Chap. 21. An Act to authorize the levying of an Assessment for the year 1881.

Chap. 22. An Act for appropriating certain Moneys therein mentioned for the service of the year of Our Lord one thousand eight hundred and eighty-one.

Chap. 23. An Act to encourage new industries in the Town and Common of Charlottetown.

Chap. 24. An Act to futher amend an Act to incorporate the Town of Summerside, and the Act in amendment thereof.

Chap. 25. An Act respecting the Credit Foncier Franco-Canadien.

Chap. 26. An Act to incorporate the Morell Starch Company.

Chap. 27. An Act to incorporate the Prince Edward Island Butter, Cheese and Starch Company.

Chap. 28. An Act for the incorporation of the Charlottetown Woollen Company.

Chap. 29. An Act for the incorporation of the Prince Edward Island Pottery Company.

Chap. 30. An Act to incorporate the Crapaud Starch Company.

Chap. 31. An Act to incorporate the St. Mary's Hall Company, Tignish.

Chap. 32. An Act for the incorporation of the Miminegash Coal Company.

Chap. 33. An Act to incorporate the Trustees of the Presbyterian Hall and Church at Stanley Bridge.

Chap. 34. An Act to vest certain Church Lands at St. Peter's in the Roman Catholic Episcopal Corporation of the Diocese of Charlottetown.

Chap. 35. An Act to confirm the sale of certain Lands in Charlottetown.

Chap. 36. An Act to incorporate the Caledonian Club of Prince Edward Island.

In reference to Chapter 18, intituled: "An Act respecting the Administration by the Crown of the Estate of Intestates in certain cases," the undersigned has submitted a separate Report.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Honor the Deputy of His Excellency the Governor General in Council on the 24th November*, 1882.

The Committee of Council have had before them a Report dated 13th November, 1882, from the Minister of Justice, with respect to the Acts of the General Assembly of the Province of Prince Edward Island, passed in the year 1881, the 44th year of Her Majesty's reign.

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chapter 1 to Chapter 36, inclusively, save as regards Chapter 18, intituled: "An Act respecting the Administration by the Crown of the Estates of Intestates in certain cases," upon which the Minister of Justice has submitted a separate Report.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th November, 1882.

To His Excellency the Governor General in Council:

The undersigned has had under consideration an Act passed by the General Assembly of the Province of Prince Edward Island in the year 1881, Chaptered 18, and intituled: "An Act respecting the Administration by the Crown of the Estates of Intestates in certain cases."

He observes that by the 8th Section of the Act, it is provided that, "moneys realized from estates, to which the Attorney-General is administrator under this Act, shall be kept in a separate account in such bank, or invested in such manner as the Lieutenant-Governor in Council may, from time to time, appoint, and all moneys which have been unclaimed for ten years shall, from time to time, be paid into the Treasury of this Island, for the use and benefit of Her Majesty."

Among the estates to which the Attorney-General may, by that Act, become administrator, is included the estates of persons dying intestate and without heirs or next of kin.

In the case of Mercer *vs.* The Attorney-General of Ontario, the Supreme Court of Canada decided that revenue derived from escheats is, by the 102nd Section of the British North America Act, placed under the control of Parliament as part of the Consolidated Revenue Fund of Canada.

Although that case is the subject of an appeal to the Judicial Committee of the Privy Council, the undersigned is of opinion that it should be upheld in Canada until reversed.

For these reasons he recommends that the Act in question be disallowed.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 1st December*, 1882.

On a Report dated 13th November, 1882, from the Minister of Justice, stating that he has had under consideration an Act passed by the General Assembly of the Province of Prince Edward Island, in the year 1881, 44 Vic., Chap. 18, and intituled: "An Act respecting the Administration by the Crown of the Estates of Intestates in certain cases;"

The Minister observes that among the Estates to which the Attorney-General may, by that Act, become administrator, are included the estates of persons dying intestate and without heirs or next of kin, and that by the 8th Section of the Act it is provided that "moneys realized from estates to which the Attorney-General is administrator under this Act, shall be kept in a separate account in such bank or invested in such manner as the Lieutenant-Governor in Council may, from time to time, appoint, and all moneys which have been unclaimed for ten years shall, from time to time, be paid into the Treasury of this Island, for the use and benefit of Her Majesty."

The Minister submits that in the case of Mercer *vs.* The Attorney-General of Ontario, the Supreme Court of Canada decided that revenue derived from escheats is, by the 102nd Section of the British North America Act, placed under the control of Parliament as part of the Consolidated Revenue Fund of Canada, and that case is the subject of an appeal to the Judicial Committee of Her Majesty's Privy Council.

The Minister is of opinion that the attention of the Lieutenant-Governor of Prince Edward Island should be called to the case cited, and that he should be informed that although Your Excellency has not been advised to disallow, in the meantime, the Act under consideration, its provisions would be illegal in the event of the decision of the Supreme Court in the case referred to being upheld by the Judicial Committee.

The Committee concur in the Report of the Minister of Justice, and they recommend that the Lieutenant-Governor of Prince Edward Island be informed to that effect.

JOHN J. McGEE,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 45TH VICTORIA, 1882.

4TH SESSION—28TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th February, 1883.

To His Excellency the Governor General in Council :

The undersigned having had under consideration the Acts of the General Assembly of the Province of Prince Edward Island passed in the Session of 1882, recommends that the same be left to their operation.

Chap. 1. An Act to amend an Act intituled : "An Act to repeal certain parts of the Act consolidating the Election Laws, and make other provisions in lieu thereof."

Chap. 2. An Act to amend the Public Schools Act, 1877.

Chap. 3. An Act to amend "An Act to amalgamate the Prince of Wales College and Provincial Normal College."

Chap. 4. An Act respecting the office of Sheriff.

Chap. 5. The Jury Amendment Act, 1882.

Chap. 6. An Act to amend the Law regulating the hearing of Appeal Causes.

Chap. 7. The Evidence Amendment Act, 1882.

Chap. 8. An Act respecting the Registration of certain Deeds executed abroad.

Chap. 9. An Act to amend the Trustee Act, 1866.

Chap. 10. An Act relating to judgments entered of Record in the Supreme Court.

Chap. 11. An Act to amend the Mechanics' Lien Act.

Chap. 12. An Act respecting Affidavits.

Chap. 13. An Act to amend "An Act to regulate the management of the Government Stock Farm."

Chap. 14. An Act in further amendment of the Domestic Animals Act, 1878.

Chap. 15. An Act to authorize the revision and consolidation of the General Statutes of the Province of Prince Edward Island.

Chap. 16. An Act appropriating certain Moneys therein mentioned for the Service of the Year of Our Lord one thousand eight hundred and eighty-two.

Chap. 17. An Act to repeal "The Assessment Act, 1877," with its amending Acts.

Chap. 18. An Act to amend "An Act for the purchase of Land on behalf of the Government of Prince Edward Island, and to regulate the sale and management thereof, and for other purposes therein mentioned."

Chap. 19. An Act relating to Accidents by fire in Montague, and for the removal of Nuisances from the streets thereof.

Chap. 20. An Act to consolidate and amend the Acts incorporating the Roman Catholic Bishop of Charlottetown.

Chap. 21. An Act to vest certain Lands in "The Roman Catholic Episcopal Corporation of the Diocese of Charlottetown."

Chap. 22. An Act to amend an Act to amend the Acts incorporating the Minister and Elders of St. John's Church, in the District of Belfast.

Chap. 23. An Act to continue a certain Act therein mentioned.

Chap. 24. An Act to incorporate the Prince Edward Island Historical Society.

Chap. 25. An Act to incorporate the Benevolent Irish Society of Prince Edward Island.

Chap. 26. An Act to incorporate the Riverside Creamery Company.

Chap. 27. An Act to incorporate the Wheatly River Lime Company.

Chap. 28. An Act for the incorporation of Trepan Woollen Manufacturing Company.

Chap. 29. An Act to vest the title of a certain Tract of Land in William Dodd, Esquire.

A. CAMPBELL,

Minister of Justice.

CERTIFIED COPY *of Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 26th February,* 1883.

The Committee of the Privy Council have had before them a Report dated the 13th February, 1883, from the Minister of Justice with respect to the Acts passed by the General Assembly of the Province of Prince Edward Island in the year 1882, the 45th year of Her Majesty's reign;

On the recommendation of the Minister of Justice, the Committee advise that the power of disallowance be not exercised with respect to any of the said Acts, being Chap. 1 to Chap. 29 inclusively.

JOHN J. McGEE,

Clerk Privy Council.

PRINCE EDWARD ISLAND, 46TH VICTORIA, 1883.

1ST SESSION—29TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 5th February, 1884.

To His Excellency the Governor General in Council :

The undersigned having had under consideration the Acts of the General Assembly of the Province of Prince Edward Island, passed in the year 1883, the Chapters and Titles of which are given in the annexed Schedule, respectfully recommends that they be left to their operation.

While making this recommendation, the undersigned deems it proper to observe that by Chap. 8, intituled: "An Act to continue certain Acts therein mentioned," the Act 24th Vic., Chap. 7, intituled : "An Act for the preservation of the Alewives Fisheries in this Island," and 26th Vic., Chap. 10, intituled : "An Act to alter and amend the Act for the preservation of the Alewives Fisheries in this Island," are continued and made perpetual. It is quite clear that the Legislature of Prince Edward Island could not now pass these Acts, the subject of Sea Coast and Island Fisheries being within the exclusive Legislative Authority of Parliament.

It is equally clear that the Legislature of Prince Edward Island has no power to continue these Acts in force after the date at which they expire.

The Act in question continued a number of other Acts within the legislative authority of the Legislature of Prince Edward Island, and it is, in the opinion of the undersigned, expedient to leave it to its operation, calling the attention of the local authorities to the provision continuing the two Acts specially referred to, namely, 24 Vic., Chap. 7 and 26th Vic., Chap. 10. The attention of the Minister of Marine and Fisheries has also been called to this matter.

By Chapter 11, intituled: "An Act relating to the Acts of the Dominion Parliament, respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations," provisions are made similar to those contained in the Act of the Parliament of Canada, 46th Vic., Chap. 23, intituled: "An Act respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations."

The Act of the Island Legislature was assented to on the 29th day of April, 1883, and that of Parliament on the 25th day of May, 1883.

While it is probably true that the former is unnecessary, the undersigned is of opinion that no public inconvenience can arise from leaving it to its operation.

By Chapter 25, intituled : "An Act to incorporate the Inland Steam Navigation Company of Prince Edward Island," certain persons are incorporated by the name of the Inland Steam Navigation Company, and are given the general powers made incident to a Corporation by the Act of the Assembly of the Island, 15th Vic., Chap. 14, and Acts in amendment thereof, but the objects for which corporate powers are given are not stated.

It is, therefore, impossible to say whether the objects are Provincial or are not, and the undersigned is of opinion that the attention of the Lieutenant-Governor should be called to the omission.

If this Report is approved, the undersigned recommends that the substance of it be communicated to the Lieutenant-Governor of Prince Edward Island.

A. CAMPBELL,
Minister of Justice.

SCHEDULE.

Chap. 1.—An Act for appropriating certain moneys therein mentioned for the service of the year of our Lord 1883.

Chap. 2.—An Act to further amend the Public Roads Act, 1879.

Chap. 3.—An Act to prevent the spread of the Potato Bug in Prince Edward Island.

Chap. 4.—An Act to amend "An Act to prevent Peddlers travelling and selling within this Island without license."

Chap. 5.—An Act to further amend "An Act for rendering a written memorandum necessary to the validity of certain promises and engagements."

Chap. 6.—The appeal in Equity Act, 1883.

Chap. 7.—An Act to protect the manufacture of Butter and Cheese.

Chap. 8.—An Act to continue certain Acts therein mentioned.

Chap. 9.—An Act to amend "An Act to commute the Crown Revenues of Prince Edward Island," and to provide for the civil list thereof, as well as for certain compensations therein mentioned.

Chap. 10.—An Act to encourage Coast and River Steam Service in King's County.

Chap. 11.—An Act relating to the Acts of the Dominion Parliament respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations.

Chap. 12.—An Act respecting Georgetown and Common.

Chap. 13.—An Act to further amend "An Act to provide for the care and maintenance of idiots, lunatics, and persons of unsound mind."

Chap. 14.—An Act to authorize the registration of a certain Deed therein recited.

Chap. 15.—An Act to incorporate the "*Herald* Printing Company."

Chap. 16.—An Act to enable George Tweedy to be admitted as an Attorney and Barrister of the Supreme Court of this Island.

Chap. 17.—An Act to incorporate the "Millview Creamery Company."

Chap. 18.—An Act to incorporate the "Montague Hall Company."

Chap. 19.—An Act to authorize the opening of a Roman Catholic Cemetery near Charlottetown.

Chap. 20.—An Act for the incorporation of the People's Cemetery Company, of Charlottetown.

Chap. 21.—An Act to incorporate the St. Eleanor's Cheese Manufacturing Company.

Chap. 22.—An Act to enable the Trustees of the Baptist Church at Charlottetown to sell certain lands.

Chap. 23.—An Act in further amendment of "An Act to incorporate the City of Charlottetown."

Chap. 24.—An Act to further amend certain Acts relating to the Town of Summerside.

Chap. 25.—An Act to incorporate the Inland Steam Navigation Company of Prince Edward Island.

Chap. 26.—An Act to incorporate the Freestone Hall Company.

Chap. 27.—An Act to incorporate the Trustees of the Summerside Presbyterian Church, and to repeal an Act therein mentioned.

Chap. 28.—An Act to incorporate the Eldon Public Hall Company.

Chap. 29.—An Act to incorporate the Trustees of the Orwell Head Church in connection with the Church of Scotland.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 20th March,* 1884.

The Committee of the Privy Council have had before them a Report dated 5th February, 1884, with respect to the Acts of the General Assembly of the Province of Prince Edward Island, being Chapters 1 to 29 inclusive, passed in the year 1883, and the 46th year of Her Majesty's reign.

The Minister recommends that the power of disallowance be not exercised with respect to any of the said Acts, and while making this recommendation the Minister is of opinion that the attention of the Lieutenant-Governor of Prince Edward Island should be called to his observations upon Chapters 8, 11 and 25 of the said Acts.

The Committee advise that the said Acts be left to their operation, and that a Despatch, based upon the Report of the Minister of Justice, be communicated to the Lieutenant-Governor of Prince Edward Island for the information of his Government.

JOHN J. McGEE,
Clerk Privy Council.

PRINCE EDWARD ISLAND, 47TH VICTORIA, 1884.

2ND SESSION—29TH GENERAL ASSEMBLY.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 26th March, 1885.

To His Excellency the Governor General in Council:

The undersigned having considered the Acts passed in the Legislature of the Province of Prince Edward Island in the year 1884, the Chapters and Titles of which are given in the Schedule attached hereto, has the honor to report that he sees no objection to the Acts, and respectfully recommends that they be left to their operation, and that the Lieutenant-Governor of Prince Edward Island be so informed.

A. CAMPBELL,
Minister of Justice.

SCHEDULE *of Acts passed at the General Assembly of the Province of Prince Edward Island, 47 Victoria,* 1884.

Cap. 1.—An Act respecting Liquor Licenses.

Cap. 2.—An Act for appropriating certain moneys therein mentioned for the Service of the year of Our Lord one thousand eight hundred and eighty-four.

Cap. 3.—The Chancery Act, 1884.

Cap. 4.—An Act to amend the "County Courts Amendment Act, 1878."

Cap. 5.—An Act respecting Land Surveyors.

Cap. 6.—An Act to amend "An Act respecting Garnishment of Debts."

Cap. 7.—An Act respecting Affidavits and Affirmations.

Cap. 8.—An Act to protect Wild Fowl.

Cap. 9.—An Act to confirm certain proceedings in the Surrogate and Probate Court.

Cap. 10—An Act respecting the investment of Trust Funds.

Cap. 11.—An Act to continue certain Acts therein mentioned.

Cap. 12.—An Act relating to Law Students.

Cap. 13.—An Act respecting the execution of Deeds of married women.

Cap. 14.—An Act to regulate certain nuisances in the City of Charlottetown.

Cap. 15.—The Summerside Incorporation Amendment Act (1884).

Cap. 16.—An Act relating to Accidents by Fire, in Kensington, Prince County, and for the removal of nuisances from the streets thereof.

Cap. 17.—An Act to incorporate the Charlottetown Hospital.

Cap. 18.—An Act to incorporate the Montague Cemetery.

Cap. 19.—An Act to amend "An Act for the incorporation of the Miminegash Coal Company.

Cap. 20.—An Act to amend "An Act to incorporate the Masonic Temple Company."

Cap. 21.—An Act respecting the Union of certain Methodist Churches therein named.

Cap. 22.—An Act to incorporate the Prince Edward Island Hospital.

Cap. 23.—An Act to incorporate Prince Edward Lodge, number twenty-two, of the Independent Order of Odd Fellows, Summerside Prince Edward Island.

Cap. 24.—An Act to incorporate the *Patriot* Publishing Company.

Cap. 25.—An Act to incorporate the *New Era* Printing and Publishing Company.

Cap. 26.—An Act to incorporate Mark Wright and Company (Limited).

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 7th April,* 1885.

The Committee of the Privy Council have had before them a Report dated 20th March, 1885, from the Minister of Justice, with respect to the Acts passed by the Legislature of the Province of Prince Edward Island in the year 1884, the Chapters and Titles of which are given in the Schedule hereto, being from 1 to 26 inclusive;

The Committee, on the recommendation of the Minister of Justice, advise that the power of disallowance be not exercised with respect to any of the said Acts and that the Lieutenant-Governor of Prince Edward Island be so informed.

JOHN J. McGEE,
Clerk Privy Council.

NORTH-WEST TERRITORIES LEGISLATION.

MEMORANDUM *with regard to the Legislation of the North-West Territories.*

None of the Ordinances of the North-West Territories passed prior to 1878 are in force. Those of 1877 were pronounced *ultra vires* by the then Minister of Justice, and were never printed. At the suggestion of the Minister they were repealed and re-enacted since, excepting Nos. 5 and 12.

The Ordinances in force were those of 1878 (excepting No. 9 repealed by No. 7, of 1881), 1879 and 1881.

NORTH-WEST TERRITORIES, 45TH VICTORIA, 1881.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 13th June, 1882.

To His Excellency the Governor General in Council:

The undersigned has the honor to report that he has examined the thirteen Ordinances passed by the Council of the North-West Territories, in the year 1881, and finds them free from objection. He, therefore, recommends that the Ordinances named in the annexed Schedule be left to their operation.

A. CAMPBELL,
Minister of Justice.

SCHEDULE.

No. 1. An Ordinance respecting Short Forms of Indenture.
No. 2. An Ordinance respecting security to be given by Public Officers.
No. 3. An Ordinance to extend and amend the Registration of Titles Ordinance.
No. 4. An Ordinance respecting the Office of Sheriff.
No. 5. An Ordinance respecting Mortgages and Sales of Personal Property.
No. 6. An Ordinance respecting trespassing and stray Animals.
No. 7. An Ordinance respecting Marriages.

No. 8. An Ordinance incorporating the Bishop of the Church of England, Diocese of Saskatchewan.
No. 9. An Ordinance respecting the sale of Medicines and Drugs.
No. 10. An Ordinance to amend the Ordinance respecting Fences.
No. 11. An Ordinance for the protection of Sheep.
No. 12. An Ordinance respecting driving off Horses and Cattle.
No. 13. An Ordinance respecting Bulls.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 27th June*, 1882.

On a Report dated 13th June, 1882, from the Minister of Justice, recommending, with respect to the 13 Ordinances named in the annexed Schedule, being from 1 to 13 inclusive, passed by the Council of the North-West Territories in the year 1881, and received by the Secretary of State on the 1st August, 1881, that they be left to their operation;

The Committee concur in the foregoing recommendation and advise that the Lieutenant-Governor of the North-West Territories be so informed.

JOHN J. McGEE,
Clerk Privy Council.

NORTH-WEST TERRITORIES, 46TH VICTORIA, 1883.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 28th November, 1883.

To His Excellency the Governor General in Council:

The undersigned having had under consideration the Ordinances passed by the Lieutenant-Governor of the North-West Territories in Council, at a Legislative Session, formally opened on the 22nd day of August and closed on the 4th day of October last, begs leave to report:

By the 9th Section of the North-West Territories Act, 1880 (43rd Victoria, Chap. 25), it is provided that—

"The Lieutenant-Governor in Council, or the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly, as the case may be, shall have such powers to make Ordinances for the Government of the North-West Territories, as the Governor in Council may, from time to time, confer upon him; provided always that such powers shall not at any time be in excess of those conferred by the ninety-second and ninety-third Sections of 'The British North America Act, 1867,' upon the Legislatures of the several Provinces of the Dominion.

"2. Provided also, that no Ordinance to be so made shall (*a*) be inconsistent with or alter or repeal any provisions of any Act of the Parliament of Canada in the Schedule to this Act or of any Act of the Parliament of Canada, which may now, or at any time hereafter expressly refer to the said Territories, or which or any part of which may be at any time made by the Governor in Council, applicable to or declared to be in force in the said Territories, or (*b*) impose any fine or penalty exceeding one hundred dollars."

On the 26th day of June, 1883, the Governor in Council conferred upon the Lieutenant-Governor of the North-West Territories in Council, or with the advice of the Legislative Assembly (as the case may be) power to make Ordinances for the Government of the North-West Territories in respect of the subjects following, viz.:—

1. The establishment and tenure of territorial offices, and the appointment and payment of territorial officers.

2. The establishment, maintenance and management of prisons in and for the North-West Territories.

3. Municipal institutions in the Territories subject to any legislation by the Parliament of Canada heretofore or hereafter enacted.

4. The issue of shop, auctioneer and other licenses, except licenses for the sale of intoxicating liquors, in order to the raising of a revenue for territorial or municipal purposes.

5. The solemnization of marriage in the Territories.

6. The administration of justice including the constitution, organization and maintenance of territorial Courts of Civil jurisdiction.

7. The imposition of punishment by fine, penalty or imprisonment for enforcing any territorial Ordinances.

8. Property and civil rights in the Territories, subject to any legislation by the Parliament of Canada on these subjects.

9. Generally all matters of a merely local or private nature in the Territories.

By the 11th Section of the North-West Territories Act, 1880, it is provided as follows, viz.:—

"An authentic copy of every such Ordinance shall be mailed for transmission to the Secretary of State, within thirty days after its passing, and if the Governor in Council at any time within one year after its receipt by the Secretary of State thinks fit to disallow the Ordinance, such disallowance being signified by the Secretary of State to the Lieutenant-Governor, shall annul the Ordinance from and after the date of such signification, and the Ordinances so made and all Orders in Council disallowing any Ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

No. 1. "An Ordinance respecting Infectious and Contagious Diseases of Domestic Animals," makes it unlawful for owners of cattle affected with any contagious disease to allow them to run at large, and provides for the herding of cattle so affected, and for the killing of cattle so affected, and the burning of their bodies after inquiry, and on an Order made by a Stipendiary Magistrate or by two Justices of the Peace.

The legislation of Parliament on this subject is found in "The Animal Contagious Diseases Act, 1879," which, by Proclamation of 21st September, 1883, was made applicable to the North-West Territories. The first seven sections of that Act are in force at all times, whether Orders in Council under the Act are made or not.

This Ordinance is similar to Chapter fifty-two (52) of the Consolidated Statutes of Manitoba, intituled: "An Act respecting Infectious and Contagious Diseases of Domestic Animals," first passed in 1879, and allowed to go into force without remark.

As an Act of Local Legislature it could only be supported as an Act dealing with a matter of local or private nature in the Province, not coming within the enumerated classes of Section ninety-one (91) of the British North America Act.

The undersigned cannot say that the Ordinance in question is clearly inconsistent with, or that it distinctly alters or repeals, any provision of "The Animal

Contagious Diseases Act, 1879." It rather makes additional provisions in the same direction, namely the killing of cattle infected by contagious disease. In that view the question of its disallowance becomes rather a matter of policy, and the undersigned recommends that the views of the Minister of Agriculture be obtained before action is taken in respect of the Ordinance.

No. 2 is "An Ordinance respecting Municipalities." It makes provision for the incorporation of Towns, Cities and other Municipalities, for the election of Councillors, the appointment and payment of Municipal Officers, the levying and collecting of rates, the making of By-laws in respect of certain matters, in respect of which Municipalities in the several Provinces have power to make by-laws. Giving the expressions used in the Order in Council as defining the Legislative authority of the Lieutenant-Governor of the North-West Territories in Council as large a meaning as they have in the British North America Act, the undersigned is of opinion that this Act taken as a whole is within the legislative authority of the Lieutenant-Governor in Council.

The undersigned is of opinion, however, that the 3rd Paragraph of Section 49 should be amended. It provides, among other things, that a person occupying property of the Crown in other than an official capacity, shall be assessed in respect thereof. That is taxing the property in an indirect way, and the provision is consequently in conflict with the 125th Section of the British North America Act. It is probable that a tax can be levied on an occupant of Crown property in respect of any interest, such as a leasehold interest which he has in the property, but the property is not liable to tax.

The words 'the benefit of trade and commerce' should be struck out of the 23rd Paragraph of the 147th Section.

No. 3. "An Ordinance to amend the Administration of Civil Justice Ordinances, 1878 and 1879," repeals Section 1 of the Ordinance of 1878 respecting the Administration of Civil Justice, and substitutes therefor a Section, by which the North-West Territories are divided into four Judicial Districts. Amendments of the Ordinances of 1878 and 1879 and additional provisions relating to procedure in the District Courts are also made by this Ordinance. Assuming that there is no objection to the division of the Territories into the four districts, he sees no objection to this Ordinance.

No. 4. "An Ordinance respecting Partnerships," makes provision for the registration of co-partnerships and business firms. Acts similar to this are in force in several Provinces. (*See* Rev. Stat. Ontario, Chap. 123; Consol. Stat. New Brunswick, Chap. 97, and Consolidated Statutes Manitoba, Chap. 17.)

No. 5. "An Ordinance for the relief of Indigent Children," makes provision for the authorities of schools and orphanages maintained by religious bodies or voluntary subscription receiving into their institutions and educating, and caring for, male children under sixteen, and female children under fourteen years of age. In certain cases the Stipendiary Magistrates or two Justices make orders for sending destitute children without houses or guardianship to any such institution as will receive them. Provisions are made so that the child shall be sent to an institution under the control of that religious body to which it naturally belonged, also for the inspection of the institution. Other necessary safeguards are provided.

No. 6. "An Ordinance to prevent the profanation of the Lord's Day," is quite in accordance with the law in force in other Provinces. All being based on the Statute passed in the 29th year of the reign of His Majesty Charles II, Chaptered seven (7).

No. 7. "An Ordinance authorizing the appointment of Notaries Public," repeals No. 8 of 1878, which authorized the appointment of Notaries, but made no other provision. The present Ordinance, in addition, defines in a general way the powers of a Notary and fixes a fee for his commission. Acts similar to this Ordinance are in force in other Provinces, and while the undersigned is of opinion that Notaries are officers whom the Governor General could appoint, he thinks it is more convenient to leave the exercise of this power with the Local Authorities under their local Acts.

No. 8. "An Ordinance for the protection of game," provides close seasons and makes it unlawful during such seasons to kill certain birds and animals. Its provis-

ions do not apply to Indians killing game for their own use or to the country lying twenty miles north of the Main Saskatchewan River and the North Branch thereof.

No. 9. "An Ordinance to regulate the disposal of Found or Stolen Horses," makes provisions for the sale or disposal of horses which have been lost or stolen and which come into the possession of the North-West Mounted Police, and for which no owner can, after notice, be found.

No. 10. "An Ordinance respecting the Herding of Animals," enacts provisions similar to those contained in Sections 32 to 48 of Consolidated Statutes of Manitoba, Chap. 18, which deals with the same subject.

No. 11. "An Ordinance to enforce the Destruction of the Canada Thistle and other noxious weeds," is adapted from Chapter 188 of the Revised Statutes of Ontario. A similar Act is in force in Manitoba.

No. 12. "An Ordinance respecting Auctioneers, Hawkers and Pedlers," provides that after the 1st January, 1884, auctioneers, hawkers and pedlers shall not follow their calling without first obtaining a license therefor.

No. 13. "An Ordinance to provide and regulate Returns by Justices of the Peace," as its title indicates, requires Justices of the Peace to make Returns to the Lieutenant-Governor, of proceedings had before them and of fines received by them.

No. 14. "An Ordinance respecting the construction of Chimneys," makes provision for the construction of Chimneys in ways suitable to prevent accidental fires.

No. 15. "An Ordinance to amend the Ordinance No. 6 of 1879, respecting the Licensing of Billiard and other Tables, and for the prevention of gambling," is explained by its title. Sections 2 of the Ordinance of 1879 is repealed and another section establishing a scale of license fees is substituted therefor.

No. 16. "An Ordinance to further amend The Registration of Titles Ordinance, 1879," repeals Section 29 of the Ordinance of 1879, and substitutes another in lieu thereof. Both sections make provisions in relation to the fees to be exacted by the Registrar.

No. 17. "An Ordinance to amend Ordinance No. 12 of 1878, respecting the marking of Stock," amends the Ordinance of 1878 on the same subject, and makes further provision to prevent persons from marking or branding cattle or horses the property of another person.

No. 18. "An Ordinance to amend Ordinance No. 1 of 1881, respecting Short Forms of Indentures," is a short Ordinance by which some verbal amendments are made to the Ordinance of 1881 on the same subject.

No. 19. "An Ordinance to amend an Ordinance for the protection of Sheep, No. 11 of 1881," amends the Ordinance of 1881 so as to render it lawful to kill dogs worrying calves or colts as well as sheep and lambs.

No. 20. "An Ordinance to amend an Ordinance for the prevention of Prairie and Forest Fires, No. 4 of 1879," amends the Ordinance of 1879 so as to make it an offence against that Ordinance for any one wantonly or carelessly to set fire to any timber, wood land or grass, or negligently to cause the same to be set fire to.

No. 21. "An Ordinance to repeal Ordinance No. 10 of 1881, and to amend Ordinance respecting fences, No. 10 of 1878," defines a lawful fence.

The undersigned, therefore, recommends :—

1. That Ordinance No. 1 respecting "Infectious and Contagious Diseases of Domestic Animals," be referred to the Minister or Agriculture for his opinion as to whether or not it should be left to its operation.

2. That the remaining Ordinances, Nos. 2 to 21, both inclusive, be left to their operation.

3. That the substance of that part of the Report which deals with Ordinance No. 2 ("An Ordinance respecting Municipalities"), be communicated to the Lieutenant-Governor of the North-West Territories with a view to the amendment of the Ordinance.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 30th September*, 1884.

The Committee of the Privy Council have had under consideration a Despatch dated 1st November, 1883, from the Lieutenant-Governor of the North-West Territories embodying a list of Ordinances, being numbers one to twenty-one inclusive, made and adopted by the Lieutenant-Governor of the North-West Territories in Council at a Session of the Council formally opened on the 22nd day of August and closed on the 4th day of October, 1883, and transmitting an authentic copy of each of the said Ordinances in accordance with the 11th Section of the North-West Territories Act, 1880, for the consideration of His Excellency in Council.

The Minister of Justice, to whom the Despatch in question was referred reports as follows:—

By the 9th Section of the North-West Territories Act, 1880 (43rd Vic. Cap. 25), it is provided that—

"The Lieutenant-Governor in Council, or the Lieutenant-Governor, by and with the advice and consent of the Legislative Assembly, as the case may be, shall have such powers to make Ordinances for the Government of the North-West Territories as the Governor in Council may from time to time confer upon him; provided always that such powers shall, not at any time, be in excess of those confered by the ninety-second and ninety-third Sections of 'The British North America Act, 1867,' upon the Legislatures of the several Provinces of the Dominion."

"2. Provided also, that no Ordinance to be made shall (*a*) be inconsistent with or alter or repeal any provisions of any Act of the Parliament of Canada in the Schedule to this Act, or of any Act of the Parliament of Canada, which may now, or at any time hereafter, expressly refer to the said Territories, or which, or any part of which may be at any time made by the Governor in Council applicable to or declared to be in force in the said Territories, or (*b*) impose any fine or penalty not exceeding one hundred dollars."

That on the 26th day of June, 1883, the Governor in Council conferred upon the Lieutenant-Governor of the North-West Territories in Council, or with the advice of the Legislative Assembly (as the case may be), power to make Ordinances for the government of the North-West Territories in respect of the subjects following, viz.:—

1. The establishment and tenure of Territorial Offices, and the appointment and payment of Territorial Officers.

2. The establishment, maintenance and management of Prisons in and for the North-West Territories.

3. Municipal Institutions in the Territories, subject to Legislation by the Parliament of Canada, heretofore or hereinafter enacted.

4. The issue of Shop, Auctioneer and other Licenses, except Licenses for the sale of Intoxicating Liquors, in order to the raising of a Revenue for Territorial or Municipal purposes.

5. The Solemnization of Marriages in the Territories.

6. The Administration of Justice, including the constitution, organization and maintenance of Territorial Courts of Civil Jurisdiction.

7. The imposition of Punishment, by fine or penalty or imprisonment, for enforcing any Territorial Ordinances.

8. Property and civil rights in the Territories—subject to any legislation by the Parliament of Canada on these subjects.

9. Generally all matters of a merely local or private nature in the Territories.

That by the 11th Section of the North-West Territories Act, 1880, it is provided as follows, viz.:—

"An authentic copy of every such Ordinance shall be mailed for transmission to the Secretary of State, within thirty days after its passing, and if the Governor in Council, at any time within one year after its receipt by the Secretary of State, thinks fit to disallow the Ordinance, such disallowance being signified by the Secretary of State to the Lieutenant-Governor, shall annul the Ordinance from and

after the date of such signification, and the Ordinances so made and all Orders in Council disallowing any Ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

No. 1. "An Ordinance respecting Infectious and Contagious Diseases of Domestic Animals," makes it unlawful for owners of cattle affected with any contagious disease to allow them to run at large, and provides for the herding of cattle so affected, and for the killing of cattle so affected and the burning of their bodies after inquiry and on an order made by a Stipendiary Magistrate or by two Justices of the Peace.

That the legislation of Parliament on this subject is found in "The Animal Contagious Diseases Act, 1879," which, by proclamation of 21st September, 1883, was made applicable to the North-West Territories. The first seven sections of that Act are in force at all times, whether Orders in Council are made or not.

That this Ordinance is similar to Chapter (52) fifty-two of the Consolidated Statutes of Manitoba, intituled: "An Act respecting Infectious and Contagious Diseases of Domestic Animals," first passed in 1879, and allowed to go into force without remark.

That as an Act of Local Legislature it could only be supported as an Act dealing with a matter of local or private nature in the Province not coming within the enumerated classes of Section ninety-one (91) of the British North America Act.

The Minister of Justice cannot say that the Ordinance in question is clearly inconsistent with, or that it directly alters or repeals any provision of "The Animal Contagious Diseases Act, 1879." It rather makes additional provisions in the same direction, namely, the killing of cattle infected by contagious disease. In that view the question of its disallowance becomes a matter of policy, and the Minister recommends that the views of the Minister of Agriculture be obtained before action is taken in respect of the Ordinance.

No. 2 is "An Ordinance respecting Municipalities." It makes provision for the incorporation of Towns, Cities, and other Municipalities, for the election of Councillors, the appointment and payment of Municipal Officers, the levying and collecting of rates, the making of By-Laws in respect of certain matters in respect of which municipalities in the several Provinces have power to make By-Laws. Giving the expressions used in the Order in Council as defining the Legislative authority of the Lieutenant-Governor of the North-West Territories in Council as large a meaning as they have in the British North America Act, the Minister is of opinion that this Act taken as a whole is within the Legislative authority of the Lieutenant-Governor in Council.

The Minister of Justice is of opinion, however, that the 3rd Paragraph of Section 49 should be amended. It provides, among other things, that a person occupying property of the Crown in other than an official capacity shall be assessed in respect thereof. That is taxing the property in an indirect way, and the provision is consequently in conflict with the 125th Section of the British North America Act. It is probable that a tax can be levied on an occupant of Crown property in respect of any interest, such as a leasehold interest which he has in the property, but the property is not liable to tax.

The words "the benefit of trade and commerce" should be struck out of the 23rd Paragraph of the 147th Section.

No. 3. "An Ordinance to amend the administration of Civil Justice," and substitutes therefor a section, by which the North-West Territories are divided into four Judicial Districts. Amendments of the Ordinances of 1878 and 1879, and additional provisions relating to procedure in the District Courts, are also made by this Ordinance. Assuming that there is no objection to the division of the Territories into the four districts, he sees no objection to this Ordinance.

No. 4 "An Ordinance respecting Partnerships" makes provision for the registration of Co-partnerships and business firms. Acts similar to this are in force in several Provinces. (*See* Revised Statutes, Ontario, Cap. 123; Consolidated Statutes, New Brunswick, Cap. 97, and Consolidated Statutes, Manitoba, Cap. 17.)

No. 5. "An Ordinance for the relief of Indigent Children," makes provision for the authorities of School and Orphanages maintained by Religious Orders or voluntary subscription receiving into their institutions and educating, and caring for, male children under sixteen, and female children under fourteen years of age. In certain cases the Stipendiary Magistrates or two Jutices may make orders for sending destitute children without houses or guardianship to any such institution as will receive them. Provisions are made so that the child shall be send to an institution under the control of that religious body to which it naturally belonged, also for the inspection of the Institution. Other necessary safeguards are provided.

No. 6. "An Ordinance to prevent the profanation of the Lord's Day," is quite in accordance with the law in force in other Provinces; all being based on the Statutes passed in the twenty-ninth year of the reign of His Majesty Charles II, Chaptered seven.

No. 7. "An Ordinance authorizing the appointment of Notaries Public," repeals No. 8 of 1878, which authorized the appointment of Notaries, but made no other provision. The present Ordinance, in addition, defines, in a general way, the powers of a Notary and fixes a fee for his commission. Acts similar to this Ordinance are in force in other Provinces, and while the Minister is of opinion that Notaries are officers whom the Governor General could appoint, he thinks it more convenient to leave the exercise of this power with the Local Authorities under their Local Acts.

No. 8. "An Ordinance for the protection of Game," provides close seasons and makes it unlawful during such seasons to kill certain birds and animals. Its provisions do not apply to Indians killing game for their own use, or to the country lying 20 miles north of the main Saskatchewan River and the north branch thereof.

No. 9. "An Ordinance to regulate the disposal of Found or Stolen Horses," makes provision for the sale or disposal of horses which have been lost or stolen and which come into the possession of the North-West Mounted Police, and for which no owner can, after notice, be found.

No. 10. "An Ordinance respecting the Herding of Animals," enacts provisions similar to those contained in Sections 32 to 48 of Consolidated Statutes of Manitoba, Chap. 18, which deals with the same subject.

No. 11. "An Ordinance to enforce the Destruction of the Canada Thistle and other noxious Weeds," is adapted from Chap. 188 of the Revised Statutes of Ontario. A similar Act is in force in Manitoba.

No. 12. "An Ordinance respecting Auctioneers, Hawkers and Peddlers," provides that after the 1st January, 1884, auctioneers, hawkers and peddlers shall not follow their calling without first obtaining a license therefor.

No. 13. "An Ordinance to provide and regulate Returns by Justices of the Peace," as its title indicates requires Justices of the Peace to make returns to the Lieutenant-Governor, of proceedings had before them, and of fines received by them.

No. 14. "An Ordinance respecting the construction of Chimneys," makes provision for the construction of chimneys in ways suitable to prevent accidental fires.

No. 15. "An Ordinance to amend the Ordinance No. 6, of 1879, respecting the Licensing of Billiard and other Tables, and for the prevention of Gambling," is explained by its title. Section 2 of the Ordinance of 1879 is repealed, and another section, establishing a scale of license fees, is substituted therefor.

No. 16. "An Ordinance to further amend the registration of Titles Ordinance, 1879," repeals Section 29 of the Ordinance of 1879, and substitutes another in lieu thereof. Both sections make provisions in relation to the fees to be exacted by the Registrar.

No. 17. "An Ordinance to amend Ordinance No. 12, of 1878, respecting the marking of Stock," amends the Ordinance of 1878 on the same subject, and makes further provision to prevent persons from marking or branding cattle or horses, the property of another person.

No. 18. "An Ordinance to amend Ordinance No. 1 of 1881, respecting Short Forms of Indentures," is a short Ordinance by which some verbal amendments are made to the Ordinance of 1881, on the same subject.

No. 19. "An Ordinance to amend an Ordinance for the protection of Sheep, No. 11, of 1881," amends the Ordinance of 1881, so as to render it lawful to kill dogs worrying calves or colts as well as sheep and lambs.

No. 20. "An Ordinance to amend an Ordinance for the prevention of Prairie and Forest Fires, No. 4, of 1879," amends the Ordinance of 1879, so as to make it an offence against that Ordinance for any one wantonly or carelessly to set fire to any timber, wood land or grass, or negligently to cause the same to be set fire to.

No. 21. "An Ordinance to repeal Ordinance No. 10 of 1881, and to amend Ordinance respecting Fences, No. 10 of 1878," defines a lawful fence.

The Minister of Justice, therefore, recommends:

1. That Ordinance No. 1 respecting Infectious and Contagious Diseases of Domestic Animals, be referred to the Minister of Agriculture for his opinion as to whether or not it should be left to its operation.

2. That the remaining Ordinances, Nos. 2 to 21, both inclusive, be left to their operation.

3. That the substance of that part of the Report which deals with Ordinance No. 2 (An Ordinance respecting Municipalities) be communicated to the Lieutenant-Governor of the North-West Territories with a view to the amendment of the Ordinance.

The Right Honorable the President of the Council to whom the Despatch in question, together with the Report of the Minister of Justice were referred, expresses his concurrence in said Report and recommends that it be acted upon.

The Committee submit the same for Your Excellency's approval.

JOHN J. McGEE,
Clerk Privy Council.

NORTH-WEST TERRITORIES, 47TH VICTORIA, 1884.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th August, 1885.

To His Excellency the Governor General in Council:

The undersigned having had under consideration the Ordinances passed by the Lieutenant-Governor of the North-West Territories in Council at the Session held in the year 1884, has the honor to report:—

1. That having carefully considered the Ordinances, the numbers and titles of which are stated in the annexed Schedule, he is of opinion that they should be left to their operation.

2. By Ordinance No. 4, intituled: "An Ordinance respecting Municipalities," "The North-West Municipal Ordinance, 1883," is repealed and other provisions made on that subject. In a Report on the Ordinance of 1883, approved by Your Excellency in Council, the undersigned had occasion to question the power of the Council

to enact the provision contained in the 3rd Sub-section of Section 49, by which it was declared, among other things, that when Crown property was occupied by any person in other than his official capacity the occupant should be assessed in respect thereof. This provision, with an amendment to the effect that the property itself shall not be liable for the assessment, is contained in the 3rd Sub-section of Section 77 of the Ordinance of 1884, the amendment being made to meet the objection referred to. It is doubtful, however, if the amendment goes far enough. The objection was not that the property would be liable to the assessment, for it clearly would not be, but that the property was being taxed indirectly, by means of an assessment levied against the occupant. The true distinction in the opinion of the undersigned is that the interest of the occupant, whatever it is, is liable to be assessed, but that the interest of the Crown is not liable. In the same Report the undersigned expressed the opinion that the words "trade and commerce" should be struck out of the 23rd paragraph of the 147th Section of the Ordinance of 1883. These words are repeated in the 24th Paragraph of the 177th Section of 1884, but the Lieutenant-Governor in a Despatch dated 29th day of October, 1884, states that he will call the attention of his Council to the suggestion.

3. By Ordinance No. 7 of 1884, intituled: "An Ordinance respecting Controverted Elections," provision is made for any voter contesting the election of a Member to the North-West Council. By the 3rd Section it is provided that on receipt of the voter's petition and the sum of ten dollars, the Lieutenant-Governor shall cause the same and a copy of all the books, papers and documents relating to the election complained of, certified by the Clerk of the Council, to be transmitted by registered letter to the Clerk of the District Court, whose office is nearest the residence of the Returning Officer at such election; and by the 4th Section it is provided that the Lieutenant-Governor shall not take the proceedings required of him by the next preceding section after the expiration of two months from the receipt of the return of the Returning Officer, by the Clerk of the Council. If by the latter provision it is intended that in case of an accidental delay of two months in the transmission of the papers by the Lieutenant-Governor, the petitioner is to be deprived of his rights to contest the election, the fairness of the provision is more than doubtful, but if it is intended to provide that unless the petitioner commences his proceedings within two months after the receipt of the return of the Returning Officer, by the Clerk of the Council, the Lieutenant-Governor is not to act on the petition,—the section should be so amended as to make it clear that such is its meaning.

4. Ordinance No. 18, intituled: "An Ordinance to amend Ordinance No. 10, of 1879, intituled: 'An Ordinance respecting the Ordinances of the North-West Territories,'" contains a clerical error, the word "three" in the 1st line of Section 1 being incorrectly used for the word "four."

5. By Ordinance No. 22, intituled: "An Ordinance to authorize Corporations and Institutions incorporated outside the North-West Territories to transact business therein," it is provided that any such institution, society or corporation, duly incorporated by law and authorized by its statute, charter, or other instrument of incorporation or articles of association to lend money or follow the business of insurance of any description in the Territories (except the business of banking) may, on certain conditions and paying an annual license fee of $25, receive from the Lieutenant-Governor a license authorizing it to carry on business in the Territories. The terms of this provision are general enough to exclude Companies incorporated by, or licensed under the authority of the Parliament of Canada, and in that case, at least, the undersigned is inclined to the opinion that the Company would have the right to transact its business without the license of the Lieutenant-Governor, but subject always to the Municipal and other laws in force in the Territories.

6. By Ordinance No. 31, intituled: "An Ordinance respecting Preferential assignments," it is provided that certain conveyances given by persons in insolvent circumstances shall be void against creditors. It is always difficult to decide whether a provision such as this relates to insolvency or to property and civil rights. No doubt such a provision in a Bankruptcy Act would be considered within the

authority of the Parliament of Canada, but whether in the absence of an Act of the Parliament of Canada respecting bankruptcy or insolvency, the provision may be considered one within the legislative authority of a Legislature is a question not by any means free from doubt. If a Provincial Legislature could not enact such a provision it is clear that the Lieutenant-Governor of the North-West Territories in Council could not. The question is one, however, which, in the opinion of the undersigned, is best left for Judicial decision.

If the Report is approved the undersigned recommends:—

1. That the power of disallowance be not exercised in respect of the Ordinances mentioned in the annexed Schedule, and that the Lieutenant-Governor of the Territories be so informed.

2. That Ordinances numbered 4, 7, 18, 22 and 31, hereinbefore referred to, be left to their operation, but that the substance of the observations made respecting them be communicated to the Lieutenant-Governor.

3. That Ordinance number 28, intituled: "An Ordinance exempting certain property from seizure and sale under execution," be disallowed.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

SCHELULE *to Report on the Ordinances passed by the Lieutenant-Governor of the North-West Territories in Council in the Session held in the year* 1884.

No. 1. An Ordinance respecting the herding of Animals.

No. 2. An Ordinance to amend and consolidate as amended the Registration of Titles Ordinance of 1878 and the Ordinance amending it.

No. 3. An Ordinance to amend and consolidate as amended the Ordinances respecting the administration of Civil Justice in the North-West Territories.

No. 5. An Ordinance providing for the organization of Schools in the North-West Territories.

No. 6. An Ordinance to establish Liens in favor of Mechanics, Machinists and others.

No. 8. An Ordinance to regulate the costs of Distress for rent and extra judicial seizure.

No. 9. An Ordinance respecting Distress for interest upon Mortgages.

No. 10. An Ordinance to declare the Law respecting real property held by two or more persons.

No. 11. An Ordinance to encourage the planting of forest trees.

No. 12. An Ordinance respecting compensation to the families of persons killed by accident.

No. 13. An Ordinance to amend Ordinance No. 12 of 1883, intituled: "An Ordinance respecting Auctioneers, Hawkers and Peddlers."

No. 14. An Ordinance to amend and consolidate as amended the several Ordinances respecting the marking of Stock.

No. 15. An Ordinance to amend Ordinance No. 1 of 1883, respecting Infectious Diseases of Domestic Animals.

No. 16. An Ordinance for the protection of Sheep and other Animals.

No. 17. An Ordinance to amend Ordinance No. 5 of 1881, intituled: "An Ordinance respecting Mortgages and Sales of Personal Property."

No. 19. An Ordinance to amend Ordinance No. 5 of 1879, intituled: "An Ordinance respecting Masters and Servants."

No. 20. An Ordinance to amend and consolidate as amended Ordinance No. 7 of 1878, providing for the appointment of Constables.

No. 21. An Ordinance to amend and consolidate as amended the several Ordinances respecting the licensing of Billiard and other Tables and for the prevention of Gambling.

No. 23. An Ordinance to amend Ordinance No. 11 of 1883, intituled: "An Ordinance to enforce the destruction of the Canada Thistle and other noxious Weeds."

No. 24. An Ordinance relating to the duties of Justices of the Peace in cases of Appeals.

No. 25. An Ordinance respecting Ferries.

No. 26. An Ordinance respecting Property and Civil Rights.

No. 27. An Ordinance concerning Receipt Notes, Hire Receipts and Orders for Chattels.

No. 29. An Ordinance to amend and consolidate as amended the several Ordinances respecting Fences.

No. 30. An Ordinance respecting choses in action.

No. 32. An Ordinance to amend Ordinance No. 14 of 1883, respecting the construction of Chimneys.

No. 33. An Ordinance to amend Ordinance No. 8 of 1883, respecting the protection of Game.

No. 34. An Ordinance respecting Inn, Hotel and Boarding House Keepers.

No. 35. An Ordinance respecting Keepers of Livery, Boarding and Sale Stables.

No. 36. An Ordinance to amend Ordinance No. 9 of 1883, intituled: "An Ordinance to regulate the disposal of Found and Stolen Horses."

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the* 15*th August*, 1885.

On a Report dated 14th August, 1885, from the Minister of Justice with respect to the Ordinances numbers 1 to 36 inclusive, passed by the Lieutenant-Governor and Council of the North-West Territories at the Session held in the year 1884, and recommending that with the exception of Ordinance No. 28, intituled: "An Ordinance exempting certain property from Seizure and Sale under Execution," the said Ordinances be left to their operation.

The Committee concur in the said Report and submit the same for Your Excellency's approval, and advice that a copy of this Minute and said Report be transmitted for the information of the Lieutenant-Governor of the North-West Territories.

JOHN J. McGEE,
Clerk Privy Council.

Report of the Hon. the Minister of Justice.

DEPARTMENT OF JUSTICE, OTTAWA, 14th August, 1885.

To His Excellency the Governor General in Council:

The undersigned has the honor to report upon the Ordinance passed by the Lieutenant-Governor in Council of the North-West Territories in the Session held in the year 1884, numbered 28, and intituled: "An Ordinance exempting certain property from seizure and sale under execution," that Ordinance No. 8 of 1879, which contained the previous law on the subject, is repealed and other provisions made. The fourth Section of the Ordinance is as follows:

"No Judgment or action for debts contracted outside of the North-West Territories, shall be enforced against any settler coming into the said North-West Territories within six years of the date of his arrival; provided always that nothing

herein shall prevent the collection of debts contracted outside the North-West Territories for goods purchased to be brought into the said Territories and provided further that nothing herein contained shall affect the rights of mortgages, and shall not apply to debts or contracts acknowledged in the said North-West Territories, provided nevertheless that the Ordinance respecting limitation of actions shall not run during the said six years."

In the opinion of the undersigned this provision is open to such serious objection as an interference with the rights of creditors that the Ordinance should be disallowed.

The undersigned, therefore, recommends that the said Ordinance, intituled: "An Ordinance exempting certain property from Seizure and Sale under execution," be disallowed.

All of which is respectfully submitted.

A. CAMPBELL,
Minister of Justice.

CERTIFIED COPY *of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Governor General in Council on the 15th August,* 1885.

The Committee of the Privy Council have had under consideration a Report dated 14th August, 1885, from the Minister of Justice, in which it is recommended for the reasons therein set forth that the following Ordinance passed by the Lieutenant-Governor in Council of the North-West Territories in the year 1884, No. 28, intituled: "An Ordinance exempting certain property from seizure and sale under execution," should be disallowed.

The Committee advise that the said Ordinance be disallowed accordingly and that a copy of their Report be forwarded for the information of the Lieutenant-Governor and Council of the North-West Territories.

JOHN J. McGEE,
Clerk Privy Council.

Proclamation disallowing the Act above mentioned.

GOVERNMENT HOUSE,

OTTAWA, Saturday the 15th day of August, 1885.

Present:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

Whereas, the Lieutenant-Governor and Council of the North-West Territories did, at the Session of the said Council, held in the year 1884, pass an Ordinance No. 28, intituled: "An Ordinance exempting certain property from Seizure and Sale under execution;"

And whereas, the said Ordinance has been laid before the Governor General in Council, together with a Report from the Minister of Justice recommending that the said Ordinance should be disallowed;

His Excellency, by and with the advice of the Queen's Privy Council for Canada, has, thereupon, this day, been pleased to declare his disallowance of the said Ordinance and the same is disallowed accordingly.

Whereof, the Lieutenant-Governor of the North-West Territories, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

JOHN J. McGEE,
Clerk Privy Council.

I, Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, Governor General of Canada, do hereby certify that the undermentioned Ordinance passed by the Lieutenant-Governor and Council of the North-West Territories at the Session held in the year 1884, intituled: "An Ordinance exempting certain property from Seizure and Sale under Execution," was received by me on the 21st day of August, 1884.

Given under my hand and seal this 15th day of August, 1885.

LANSDOWNE.

TABLES OF ACTS

AND

INDEX

ONTARIO.

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
31 Vic., 1867-68. Chapters 1 to 79.	1-4, 7-16, 18-21, 23-37, 39-63, 65-79.	.....	.....	4th July, 1868. 5th Nov., 1868.
			Chap. 5. An Act to repeal Chap. 20 of C.S.C., intituled: "An Act respecting the Provincial Duty on Tavernkeepers and to make further provision respecting the same."	do
			Chap. 6. An Act to repeal Chap. 13 of the C.S. C., so far as the same relates to Ontario, to authorize the publication of an "Ontario Gazette," and to make provision for inquiries concerning public matters and official notices.	4th July, 1868.
			Chap. 17, An Act to continue for a limited time the Acts therein mentioned.	5th Nov., 1868.
			Chap. 19. An Act respecting Gold and Silver Mines.	4th July, 1868.
			Chap. 20. An Act respecting Registrars, Registry Offices and the Registration of Instruments relating to Lands in Ontario.	do
			Chap. 29. An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures.	do
			Chap. 30. An Act to amend the Municipal Institutions Act of Upper Canada, 29-30 Victoria, Chaps. 51 and 52.	do
			Chap. 38. An Act to incorporate the Clifton Suspension Bridge Company.	5th Nov., 1868.
			Chap. 64. An Act to incorporate the Board of Trade of the Town of Guelph.	do
32-33 Vic., 1868-69. Chapters 1 to 85.	2, 4, 5, 6, 7-20, 21, 24-25, 26, 27-29, 31, 35, 37, 38, 40, 41, 43, 44, 46, 47, 49-55, 56, 57, 59, 60, 63-65, 67-69, 71-74, 76-79, 81-85.	.....	.....	22nd Feb., 1869. 3th October, 1869.
	23, 32, 33, 39, 42, 45, 48, 58, 61, 62, 66, 70, 76, 78, 80.			17th July, 1869.
		Chap. 1. The Supply Bill, 1869.		20th January, 1870

		Chap. 3. An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers.	....	26th Nov., 1869. 17th July, 1869.
			Chap. 22. An Act to amend Chap. 15 of C. S. U. C., intituled : "An Act respecting County Courts."	17th July, 1869.
			hap. 30. An Act to provide for the Registration of Births, Marriages and Deaths.	do
			Chap. 34. An Act relating to Mining.	do
			Chap. 36. An Act to amend and consolidate the Law respecting the assessment of property in Ontario	do
33 Vic., 1869. Chapters 1 to 75.	1-75.			21st Jan., 1870.
			Chaps. 5, 11, 12, 19, 24, 28, and 71 were not reported upon owing to the illness of the Minister of Justice, and consequently were left to their operation.	do
34 Vic., 1870-71. Chapters 1 to 105	1-3, 5-16, 18-20, 47-49, 74, 76-98, 100-105. 19, 48, 99.			22nd Sept., 1871. 23rd Feb., 1872.
			Chap. 4. An Act to provide for the organization of the Territorial District of Thunder Bay	do
			Chap. 17. An Act to provide for the establishment and government of a Central Prison for the Province of Ontario.	do
			Chap. 75. An Act to incorporate the Simpson Loom Company.	do
35 Vic., 1871-72. Chapters 1 to 119.	1-12, 14-35, 38-119.			10th Jan., 1873.
			Chap. 13. An Act to provide for the institution of suits against the Crown by Petition of Right and respecting procedure in Crown suits.	do
			Chap. 36. An Act for the prevention of corrupt practices at Municipal Elections.	do
			Chap. 37. An Act to establish Municipal Institutions in the Districts of Parry Sound, Muskoka, Nipissing and Thunder Bay.	do

ONTARIO—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
36 Vic., 1873. Chapters 1 to 163.	1, 5-30, 32-34, 36-46, 49, 51-163.			30th Aug , 1873.
			Chap. 2. An Act to amend the Law respecting Elections of Members of the Legislative Assembly and respecting the trial of such Elections.	do
			Chap. 3. An Act respecting the appointment of Queen's Counsel.	Not reported upon.
			Chap. 4. An Act to regulate the precedence of the Bar of Ontario.	Not reported upon.
			Chap. 31. An Act to make further provision as to the custody of Insane Persons.	30th Aug , 1873.
			Chap. 34. An Act to amend the Acts respecting Tavern and Shop Licenses.	Not reported upon.
			Chap. 35 An Act to provide for the incorporation of Immigration Aid Societies in the Province of Ontario.	30th Aug., 1873.
			Chap. 47. An Act respecting the Municipal Loan Fund Debts and respecting certain payments to Municipalities.	Not reported upon.
			Chap 48. An Act respecting Municipal Institutions in the Province of Ontario.	do
			Chap. 50. An Act to organize the Municipality of Shuniah, and to amend the Acts for establishing Municipal Institutions in unorganized Districts.	30th Aug , 1873.
			Chap. — An Act to incorporate the Loyal Orange Association of Western Ontario.	29th Aug., 1873.
			Chap. — An Act to incorporate the Loyal Orange Association of Eastern Ontario.	do
37 Vic., 1874. Chapters 1 to 103.	1-4, 6, 29-31, 33-58, 60-103.	Chap. 8. An Act to amend the Law respecting Escheats and Forfeitures.		1st April, 1875.
			Chap. 5. The Ballot Act, 1874.	do
			Chap. 7. An Act to make further provision for the due administration of Justice.	do
			Chap. 28. An Act to amend and consolidate the Public School Law.	do

			Chap. 32. An Act to amend and consolidate the law for the sale of fermented or spirituous liquors.	do
			Chap. 59. An Act to amend the Act incorporating the Port Whitby and Port Perry Railway Company.	do
38 Vic., 1875. Chapters 1 to 94.	1-3, 5-11, 13-18, 20-27, 29-43, 45-65, 68-74, 76, 77, 79, 80-94.			30th Nov., 1875.
			Chap. 4. An Act respecting the operation of the Statutes of Ontario.	23rd Nov., '75, and 27th Dec., 1875.
			Chap. 12. An Act to amend the Act respecting Division Courts.	do
			Chap. 19. An Act respecting Apprentices and Minors.	do
			Chap. 28. An Act to provide for voting by ballot at Municipal Elections.	do
			Chap. 54. An Act to enable the Corporation of the City of Kingston to close up a part of Union Street, with the water slip in front of the same, in the said City and for other purposes.	do
			Chap. 66. An Act to incorporate the Alliance Insurance Company.	do
			Chap 67. An Act to incorporate the Canada Fire and Marine Insurance Company.	do
			Chap 68. An Act to incorporate the Industrial and Commercial Life Insurance Company of Canada.	do
			Chap. 75. An Act respecting the Union of certain Presbyterian Churches therein named.	23rd Nov., 1875.
			Chap. 78. An Act respecting the Methodist Church of Canada.	do
39 Vic., 1875-76. Chapters 1 to 114.	1-7, 10-22, 24-31, 33-76, 78, 80-91, 94, 95, 96, 97-114.			25th Oct., 1876.
			Chap. 8. An Act respecting certain Administrative matters therein mentioned.	do
			Chap. 9. An Act respecting the Legislative Assembly.	do
			Chap. 14. An Act respecting County Court Judges.	do
			Chap. 23. An Act respecting Insurance Companies.	26th March, 1877.
			Chap. 24. An Act to secure uniform conditions in policies of Fire Insurance.	25th Oct., 1877.
			Chap. 26. An Act to amend the Law respecting the sale of fermented or spirituous liquors.	do
			Chap. 32. An Act to make further provision respecting Permanent Building Societies.	do
			Chap. 77. An Act to amend the Acts relating to the London, Huron and Bruce Railway Company.	do

ONTARIO—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
39 Vic., 1875-76. *Continued.*				
			Chap. 79. An Act to incorporate the Niagara Falls and Lake Erie Railway Company.	do
			Chap. 92. An Act to incorporate the Home Fire Insurance Company.	do
			Chap. 93. An Act to incorporate the Union Fire Insurance Company.	do
40 Vic., 1877. Chapters 1 to 88.	1-3, 5, 7, 9-13, 15-16, 19-23, 25-65, 67-88.			26th Oct, 1677.
			Chap. 4. An Act respecting the Administration of Estates of Intestates dying without known relatives in Ontario.	do
			Chap. 6. An Act respecting the Revised Statutes of Ontario.	do
			Chap. 8. An Act to provide for certain amendments of the Law.	do
			Chap. 14. An Act respecting aid to certain Railways and the creation of a Railway Land Subsidy Fund.	do
			Chap. 14. An Act for the encouragement of Agriculture, Horticulture, Arts and Manufactures	do
			Chap 18. An Act to amend the Acts respecting the sale of fermented or spirituous liquors	do
			Chap. 24. An Act respecting the Territorial and Temporary Districts of the Province and the Provisional County of Haliburton.	do
			Chap. 66. An Act to incorporate the Standard Fire Insurance Company.	do
41 Vic., 1878. Chapters 1 to 75	1-75.			2 st May, 1879.

42 Vic., 1879. Chapters 1 to 95.	1-12, 15-18, 21-30, 32-49, 51-83, 85-95.			12th March, 1880.
	50.	Chap. 19. An Act respecting the Administration of Justice in the Northerly and Westerly parts of Ontario.		9th Feb., 1880. 22nd March, 1880.
			Chap. 13. An Act respecting Grand Juries.	11th Nov., 1879 and 12th March, 1880.
			Chap. 31. An Act to amend the Municipal Law.	12th March, 1880.
			Chap. 84. An Act to incorporate the Prudential Life Assurance Company of Ontario.	do
42 Vic., 1880. Chapters 1 to 83.	1-9, 11-83.			14th Feb., 1881.
			Chap. 10. An Act to abolish priority of and amongst Execution Creditors.	24th March, 1881.
44 Vic., 1881. Chapters 1 to 91.	1-10, 12-91.			3rd April, 1882.
		Chap. 11. An Act for protecting the Public Interests in Rivers, Streams and Creeks.		19th May, 1881.
			Chap. 5. An Act to consolidate the Superior Courts, establish a uniform system of Pleading and Practice and make further provisions for the due Administration of Justice,	3rd April, 1882.
			Chap. 27 An Act to give increased efficiency to the Laws against Illicit Selling.	do
			Chap. 38. An Act to close part of a certain Road Allowance between the Townships of Kingston and the Village of Portsmouth.	do
			Chap. 57. An Act to amend the Acts incorporating the Toronto Gravel Road and Concrete Company.	6th March, 1882.
45 Vic., 1882. Chapter 1 to 89.	1-9, 11, 13, 15, 16, 19-22, 24-38, 40, 42-47, 49, 51, 54-56, 59, 61-66, 68, 70-73, 75, 86, 88, 89.			20th Sept., 1882.
		Chap. 14. An Act for protecting the Public Interests in Rivers, Streams and Creeks.		do
			Chap. 10. An Act for the removal of certain defects in the Law of Evidence.	6th March, 1883.
			Chap. 12. An Act respecting the restitution of Stolen Goods.	do

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
45 Vic., 1882. Chapters 1 to 89—*Continued.*			Chap. 17. An Act to confer additional powers upon Joint Stock Companies.	do
			Chap. 23. An Act to amend the Municipal Act.	do
			Chap. 39. An Act to consolidate the Debenture Debt of the Town of Owen Sound.	do
			Chap. 41. An Act to enable the Corporation of the Town of Port Hope to incur liability for the construction and extension of Water Works, and for other purposes.	do
			Chap. 48. An Act to consolidate the General Debenture Debt of the Village of Yorkville.	do
			Chap. 50. An Act to incorporate the Galt Junction Railway Company.	do
			Chap. 52. An Act to incorporate the London Junction Railway Company.	do
			Chap. 53. An Act respecting the Debenture Debt of the London and Port Stanley Railway Company.	do
			Chap. 57. An Act to incorporate the Mississippi Valley Railway Company.	do
			Chap. 58. An Act to incorporate the Northern and North-Western Junction Railway Company.	do
			Chap. 60. An Act to incorporate the Prescott and Glengarry County Junction Railway Company.	do
			Chap. 67. An Act to consolidate the Toronto and Nipissing Railway Company, the Whitby, Port Perry and Lindsay Railway Company, the Victoria Railway Company, the Toronto and Ottawa Railway Company, the Grand Junction Railway Company, and the Midland Railway of Canada.	do
			Chap 69. An Act to incorporate the Western Counties Railway Company.	do
			Chap. 74. An Act to authorize the Gananoque Water Power Company to issue debentures.	do
			Chap. 87. An Act respecting St. Paul's Church in the Town of Woodstock.	do

46 Vic., 1882-83. Chapters 1 to 72.	1-9, 11, 12, 13-16, 19-72.	Chap. 10. An Act for protecting the Public Interests in Rivers, Streams and Creeks.		2nd June, 1884. 16th March, 1883.
			Chap. 17. An Act to amend the Act relating to Market Fees.	2nd June, 1884.
			Chap. 18. An Act to consolidate the Act relating to Municipal Institutions.	do
47 Vic., 1884. Chapters 1 to 97.	1-12, 14-97.	Chap. 13. An Act respecting License Duties.		20th April, 1885. 30th April, 1884.
			Chap. 32. The Municipal Amendment Act, 1884.	20th April, 1885.
			Chap. 34. An Act to improve the Liquor License Laws.	do
			Chap. 39. An Act for the protection of persons employed in Factories.	9th Feb. 1884.

QUEBEC.

31 Vic., 1868. Chapters 1 to 59.	1-13, 15-23, 26-36, 37-45, 48-59.			4th July, 1868.
			Chap. 14. An Act to continue for a limited time the several Acts therein mentioned.	4th July, 1868. } 8th Feb., 1869. }
			Chap. 24. The Joint Stock Companies General Clauses Act	do
			Chap. 25. An Act respecting the Incorporation of Joint Stock Companies.	do
			Chap. 37. An Act to amend the Acts relating to the Corporation of the City of Montreal, and for other purposes.	do
			Chap. 46. An Act to incorporate the Chambly Hydraulic and Manufacturing Company.	22nd Feb., 1869.
			Chap. 47. An Act to incorporate the Canada Marine Insurance Company.	do

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
32 Vict., 1869. Chapters 1 to 96.	1-3, 5-96.	Chap. 4. An Act to define the Privileges, Immunities and Powers of the Legislative Council and Legislative Assembly of Quebec, and to give summary protection to persons employed in the publication of Parliamentary Papers.		4th Nov., 1869. O.C. 25th Nov., 1869.
33 Vict., 1869-70. Chapter 1 to 63.	1-4, 6-63.		Chap. 5. An Act to uphold the Authority and Dignity of the Houses of the Quebec Legislature, and the Independence of the Members thereof, and to protect persons publishing Parliamentary Papers.	24th Oct., 1880. do
34 Vic., 1870. Chapter 1 to 68.	1, 3-68.		Chap. 2. An Act to consolidate and amend the Law respecting Licenses, and the duties and obligations of persons bound to hold the same.	22nd Sept., 1871. do
35 Vic., 1871. Chapter 1 to 52.	No special report was made on the Acts of this Session as they were all considered unobjectionable.			

36 Vic., 1872. Chapter 1 to 83.	1-51, 54-58, 60-83.			9th July, 1873. 7th May, 1874.
			Chap. 52. An Act to incorporate the Town of Nicolet.	9th July, 1873.
			Chap. 53. An Act to incorporate the Corporation of the Town of Lachine.	do
			Chap. 59. An Act to amend the Act 23 Vic , Cap. 76, intituled : " An Act to incorporate the Village of Terrebonne as a Town.	do
37 Vic., 1873-74. Chapter 1 to 59.	1-54, 56-59.			14th June, 1875.
			Chap. 55. An Act to incorporate the Ottawa Iron and Steel Manufacturing Company (limited).	do
38 Vic., 1874-75. Chapters 1 to 101.	1-3, 5-6, 8-16, 18.			25th Oct., 1876.
		Chap. 47. An Act to incorporate the St. Lawrence Bridge Company.		do
			Chap. 4. An Act to encourage the manufacture of sugar from beet-root in the Province of Quebec.	do
			Chap. 7. An Act respecting the Election of Members of the Legislative Assembly of the Province of Quebec.	do
			Chap. 76. An Act to amend and consolidate the Act of Incorporation of the City of Three Rivers, and the various Acts which amend the same.	do
			Chap. 78. An Act to amend the Act 36 Vic., Cap. 53, intituled : " An Act to incorporate the Corporation of the Town of Lachine."	do
			Chap. 79. An Act to incorporate the City of Hull.	do
			Chap. 81. An Act to incorporate the Atlantic Insurance Company of Montreal.	do
			Chap. 89. An Act to incorporate the Sherbrooke Gas Company.	do
			Chap. 98. An Act to authorize Geo. Benson Hall to make improvements in the River Chaudière, and exact tolls for the use thereof.	do
			Chap. 17. An Act to divide the Registration Division of Montreal into three Registration Divisions.	do 16th Nov., 1876.
			Chap. 28. An Act to amend the Act concerning the erection and division of Parishes and the building of Churches, Parsonage Houses, &c.	do
			Chap. 29. An Act to amend Chap. 18 of the Consolidated Statutes of Lower Canada.	do

QUEBEC—*Continued*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
39 Vic., 1875. Chapters 1 to 88.	1, 3, 4, 8-18, 21-32, 34, 37-40, 44, 46 49, 51-55, 57-59, 61, 65-75, 77-88.			25th Oct., 1876.
			Chap. 2. An Act respecting the construction of the Quebec, Montreal and Occidental Railway.	do
			Chap. 6. An Act to further amend the Quebec License Act and the several Acts amending the same, and to extend the application thereof.	do
			Chap. 33. An Act to amend and consolidate the various Acts respecting the Notarial Profession in this Province.	do
			Chap. 41. An Act to annex certain portions of the Township of Shawingan, in the County of St. Maurice, to the Parish of St. Flore, in the County of Champlain. for School, Municipal and Registration purposes, and for the purposes of Parliamentary Representation.	do
			Chap. 50. An Act to incorporate the City of Sherbrooke.	do
			Chap. 56. An Act to amend the Act incorporating the Montreal, Portland and Boston Railway Company.	do
			Chap. 60. An Act to incorporate the Patriotic Insurance Company of Canada.	31st Nov. 1876. 1st Dec., 1878.
			Chap 62. An Act to change the name of the Provincial Permanent Building Society to that of the Provincial Loan Company, and to extend the powers thereof.	25th Oct., 1876.
			Chap. 64. An Act respecting a Company incorporated under the name of "Le Crédit Foncier du Bas-Canada."	do
			Chap. 66. An Act to authorize the Victor Hudon Cotron Company, Hochelaga, to issue debentures on the security of the property of the said Company, and for other purposes.	do
			Chap 76. An Act to incorporate the Musical Band of the Village of Lauzon.	do
			Chap. 7. An Act to compel Assurers to take out a License.	27th Oct., 1876.

			Chap. 35. An Act to amend an Act of this Province, 38 Vic, Chap. 29.	4th Dec., 1876.
			Chap. 36. An Act for the civil erection of several Parishes cut off from the territory of the old Parish of Notre Dame of Montreal.	
40 Vic., 1876. Chapters 1 to 82.	1-82.			9th Nov., 1877.
41 Vic., 1877-78. Chapters 1 to 61.	1-2, 4-25, 27-61.			23rd March, 1879.
			Chap. 3. An Act to amend and consolidate the Quebec License Act and its amendments.	do
			Chap 26. An Act to define and regulate the limits of certain Municipalities and Parishes in the Counties of Nicolet, Arthabaska and Drummond, and to include in the County of Nicolet the portions of these Municipalities and Parishes not now included therein.	do
41-42 Vic., 1878. Chapters 1 to 15.	1-15.			22nd July, 1879.
42-43 Vic., 1879. Chapters 1 to 87.	1-57, 59, 61-87.			19th Nov., 1880.
			Chap 58. An Act to consolidate and amend the Act incorporating the Town of St. Henri	do
			Chap 60. An Act to amend the Act incorporating the City of Sherbrooke (39 Vic., Chap. 50).	do
43-44 Vic., 1880. Chapters 1 to 105.	1-105.			3rd Sept., 1881.
44-45 Vic., 1881. Chapters 1 to 93.	1-93.			22nd July, 1882.
			Chap. 46. An Act respecting Laval University, and for the purpose of increasing the number of its chairs of Arts and other faculties within the limits of the Province of Quebec.	22nd July, 1882, 24th July, 1882.

QUEBEC—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
44-45 Vic., 1881. *Continued.*				
			Chap. 69 An Act to incorporate the Canadian Electric Light Company.	24th July, 1882.
			Chap. 72. An Act to incorporate the Quebec and Lévis Telephone Company.	do
45 Vic., 1882. Chapters 1 to 108.	1-108.			7th June, 1883.
			Chap. 4. An Act to facilitate the intervention of the Crown in Civil Cases in which the constitutionality of Federal or Provincial Acts is in question.	do
			Chap. 9. An Act to amend the Quebec License Law of 1878 (41 Vic., Chap. 3).	do
			Chap. 22. An Act to impose certain Direct Taxes on certain Commercial Corporations.	
			Chap. 35. An Act to further amend the Municipal Code of the Province of Quebec.	do
			Chap 103. An Act to incorporate the Town of Richmond.	
46 Vic., 1883. Chapters 1 to 101.	1-101.			29th June, 1884.
			Chap. 13. An Act to amend the Law respecting the constitution of the Superior Court.	do
			Chap. 55. An Act to confirm the Act of the Federal Parliament intituled : "An Act to amend and extend the Acts to empower the Stadacona Fire and Life Insurance Company to relinquish their Charter and to provide for the winding up of their affairs	do
			Chap 76. An Act to incorporate the Citizens' Gas Company of Montreal.	do

47 Vic., 1884. Chapters 1 to 97.	1-97.			8th July, 1885.
			Chap. 77. An Act to authorize the Government of Quebec to take possession of a certain Toll Bridge over the River Richelieu.	do
			Chap. 87. An Act to further amend the Act 27 Vic., Chap. 23, and the Act 39 Vic., Chap. 47.	do
			Chap. 90. An Act to incorporate the Town of Ste. Cunégonde.	do

NOVA SCOTIA.

31 Vic., 1868. Chapters 1 to 100.	1, 3, 5-10, 12-17, 19-20, 22-36, 38-100.			22nd Feb., 1869.
		Chap. 21. An Act to empower the Police Court in the City of Halifax to sentence juvenile offenders to the Halifax Industrial School.		20th Aug., 1869.
			Chap 2. An Act to amend Chapter 120 of the Revised Statutes 'Of the Solemnization of Marriage and the Registration of Marriages, Births and Deaths, and the Act in amendment thereof.'	do
			Chap. 4. An Act to amend Chap. 137 of the Revised Statutes 'Of the relief of Insolvent Debtors.'	do
			Chap. 11. An Act to amend Chap. 72 of the Revised Statutes 'Of Commissioners of Sewers and the regulating of Dyked and Marsh Lands.'	22nd Feb., 1869.
			Chap. 18. An Act to amend the Act for the appointment of a Stipendiary Magistrate and Police Constable in the Town of Pictou.	20th Aug., 1869.
			Chap 37. An Act to amend the Act to incorporate the Union Marine Insurance Company of Nova Scotia.	do
32 Vic., 1869. Chapters 1 to 78.	1-10, 13-15, 17-78.			9th Nov, 1869.
			Chap. 11. An Act to amend Chap. 75 of the Revised Statutes 'Of Shipping and Seamen.'	do
			Chap. 12. An Act in addition to Chap. 162 of the Revised Statutes 'Of Offences against the Public Peace.'	do

NOVA SCOTIA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
32 Vic., 1869—*Continued.*			Chap. 16. An Act to amend Chap. 92 of the Revised Statutes 'Of the Preservation of useful Birds and Animals.'	9th Nov. 1869.
33 Vic., 1870. Chapters 1 to 99.	1, 3-5, 7-16, 19-99.			24th Oct., 1870.
			Chap. 2. An Act to improve the Administration of Justice.	28th Sept., 1870.
			Chap. 6. An Act to amend Chap. 103 of the Revised Statutes 'Of the conveying of Timber and Lumber on Rivers and the removal of obstructions therefrom.'	24th Oct., 1870.
			Chap. 17. An Act to amend Chap. 79 of the Revised Statutes 'Of Pilotage, Harbours and Harbour Masters.'	do
34 Vic., 1871. Chapters 1 to 96.	1-31, 33-96.			19th Oct, 1871.
		Chap. 32. An Act to regulate Pilotage in the Bras d'Or Lake, in the Island of Cape Breton.		16th Dec., 1871.
			Chap. 57. An Act to incorporate the Nova Scotia Mutual Fire Insurance Company.	do
35 Vic., 1872. Chapters 1 to 119.	1-119.			4th March, 1873.
36 Vic., 1873. Chapters 1 to 95.	1-37, 41-95.			7th Sept., 1874.
			Chap. 38. An Act to incorporate the Whitehaven, New Glasgow and North Shore Railway.	do
			Chap. 39. An Act to incorporate the Sydney and East Bay Railway Company.	do

			Chap. 40. An Act to incorporate the Nictaux and Atlantic Railway Company.	do
37 Vic., 1874. Chapters 1 to 104.	1-13, 16, 17, 19-61, 64-67, 70-73, 75-81, 84-103.			12th Dec., 1874.
		Chap. 74, An Act to incorporate the Halifax Company, limited.		4th Dec., 1874.
		Chap. 82. An Act to incorporate the Eastern Steamships Company.		31st March, 1875.
		Chap. 83. An Act to incorporate the Anglo-French Steamship Company.		12th Dec., 1874.
			Chap. 14. An Act to amend the Revised Statutes 'Of Licenses for the sale of Intoxicating Liquors.'	No O. C. passed.
			Chap. 15. An Act to prevent the sale of Intoxicating Liquors at Camp Meetings.	do
			Chap. 18. An Act to establish County Courts.	12th Dec., '74, and 26th Oct. 1875.
			Chap. 62. An Act to incorporate the Eastern Counties Railroad Company.	12th Dec., 1874.
			Chap. 63. An Act to incorporate the Inverness Railway Company.	do
			Chap. 68. An Act to incorporate the Styles Mining Company, limited.	do
			Chap. 69. An Act relating to the General Mining Association, limited.	do
			Chap. 104. An Act to facilitate arrangements between Railway Companies and their Creditors.	do
38 Vic., 1875. Chapters 1 to 116.	1-24, 26-28, 30-65, 67-74, 80-88, 93-116.			19th Sept., 1876.
			Chap. 25. An Act for amending the Law relating to Election Petitions, and for providing more effectually for the prevention of corrupt practices at Elections.	do
			Chap. 29. An Act to continue the Acts of incorporation of Wharf, Pier and Breakwater Companies.	do
			Chap. 76. An Act to incorporate the Globe Marine Insurance Company.	19th Sept., '76, and 27th Oct., 1876.
			Chap. 77. An Act to continue and amend the Act relating to the Nova Scotia Marine Insurance Company.	do
			Chap. 78. An Act to incorporate the Maitland Marine Insurance Company.	do

NOVA SCOTIA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
38 Vic , 1875. *Continued.*			Chap. 79. An Act relating to the Union Marine Insurance Company of Nova Scotia	27th Oct., 1876. 19th Sept., 1876.
			Chap. 89. An Act to incorporate the Colchester Lumber Driving and Manufacturing Company.	19th Sept., 1876.
			Chap. 90. An Act to incorporate the St. Margaret's Bay Lumber and Timber Driving Company.	do
			Chap 91. An Act to incorporate the Cumberland Driving Company.	do
			Chap. 92. An Act to incorporate the Liscombe River Driving Company.	do
39 Vic., 1876. Chapters 1 to 99.	2-21, 23, 25-41, 44-48, 50-87, 89-91, 93-99.			16th Nov., 1876.
			Chap. 1. An Act to alter and amend Chap. 75 of the Revised Statutes 'Of Licences for the sale of Intoxicating Liquors and the Acts in amendment thereof'	do
			Chap. 22. An Act respecting the Legislature of Nova Scotia.	do
			Chap 24. An Act to amend Chap. 25 of the Revised Statutes, 4th Series, 'Of the Church of England.'	do
			Chap. 42. An Act respecting the Lower Chezzetcook Dyke, in the County of Halifax.	do
			Chap 43. An Act to provide for supplying the Town of Dartmouth with water.	do
			Chap. 49. An Act to amend the Act to incorporate the Town of Truro.	do
			Chap 88. An Act to amend the Act to incorporate the Colchester Lumber Driving and Manufacturing Company.	do
			Chap 92. An Act to incorporate the Nova Scotia Fishing Company (limited).	do

40 Vic., 1877. Chapters 1 to 88.	1-24, 26-56, 58-66, 68-88.			1st April, 1878.
			Chap. 25. An Act to further amend the Laws for the preservation of useful Birds and Animals.	do
			Chap 57. An Act further to amend the Act to incorporate the Town of New Glasgow.	1st April, 1878, 13th July, 1878.
			Chap. 67. An Act to incorporate the Truro Marine Insurance Company.	1st April, 1878.
			Chap. 81. An Act to incorporate the Bedford Grain Importation, Milling and Manufacturing Company.	2nd July, 1878.
41 Vic., 1878. Chapters 1 to 78.	1-78.			25th June, 1879.
42 Vic., 1879. Chapters 1 to 91.	1-21, 23-91.			22nd June, 1880.
			Chap. 22. An Act respecting Estreats.	5th Oct., 1880.
43 Vic., 1880. Chapters 1 to 77.	1-77.			29th July, 1881.
			Chap. 9. An Act to amend Chap. 85, Revised Statutes, 3rd Series, 'Of the Regulation and Inspection of Provisions, Lumber, Fuel and other merchandize.'	do
			Chap. 11. An Act to amend the laws relating to Barristers and Attorneys.	do
			Chap. 68. An Act to amend the Act to incorporate the Nova Scotia Society for the Prevention of Cruelty to Animals.	do
44 Vic., 1881. Chapters 1 to 75.	1-10, 12-15, 17-75.			9th Feb., 1882.
			Chap. 11. An Act in reference to Crown Lands and Crown Surveyors.	do
			Chap. 16. An Act to amend the Nova Scotia Railway Act, 1880.	6th March, 1882, 12th Oct., 1882.
45 Vic., 1882. Chapters 1 to 90.	1-19, 22-60, 62-72, 74-90.			26th Feb., 1883.
			Chap. 20. An Act for the Consolidation of the Nova Scotia Railways.	26th Feb., 1883, 24th April, 1883.
			Chap. 21. An Act to amend the Nova Scotia Railway Act of 1880, and the Act in amendment thereof.	do

NOVA SCOTIA—*Concluded.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
45 Vic., 1882. *Continued.*			Chap. 61. An Act to incorporate the Eastern Development Company (limited).	26th Feb., 1883.
			Chap. 73. An Act to incorporate the Pictou Oil Company.	do
46 Vic., 1883. Chapters 1 to 87.	1-18, 20, 22-87.			6th May, 1884.
			Chap. 19. An Act to authorize the raising of a Provincial Loan.	23rd May, 1885.
			Chap. 21. An Act respecting the Eastern Extension Railway.	do
47 Vic., 1884. Chapters 1 to 81.	1, 2, 4-8, 10-18, 20-24, 26-81.			4th April, 1885.
			Chap. 3. An Act respecting a Provincial Loan.	6th Sept., 1884.
			Chap. 9. An Act to impose duties on Licenses issued under the Dominion Liquor License Act, 1883.	4th April, 1885.
			Chap. 19. An Act to amend Chap. 137, Revised Statutes, 3rd Series, 'Of the relief of Insolvent Debtors.'	do
			Chap. 25. An Act to improve the Administration of Justice.	do

31 Vic., 1868. Chapters 1 to 72.	1-9, 11, 12, 14, 15, 17-19, 21-24, 27-30, 33-36, 38, 40-53, 58-61, 63, 64, 67-72.			4th July, 1868.
	10.			18th Sept., 1868.
	13, 16, 20, 26, 31, 32, 37, 39, 54, 55, 62, 65, 66.			12th Sept., 1868.
			Chap. 25. An Act to exempt the Homestead of families from levy and sale on execution.	18th Sept., 1868.
			Chap. 56. An Act relating to the Central Bank of New Brunswick.	do
			Chap. 57. An Act to extend the time for the building of the Albert Railway.	do
32 Vic., 1869. Chapters 1 to 93.	1, 2, 4, 5, 7, 8, 10, 12, 13, 14, 16-33, 35-53, 55-68, 70-79, 81-85, 87-91.			17th Aug., 1869.
	92.			20th Aug., 1869.
	6, 9, 11, 15, 34, 54, 69, 80, 86.			9th Nov., 1869.
			Chap. 3. An Act in amendment of the Act of Assembly, 24 Vic., Chap. 30, relating to the Police Force in the City of St. John.	do
			Chap. 93. An Act relating to Marriage Licenses.	12th April, 1870.
			An Act in addition to and in amendment of Chap. 60, Title VIII of the Revised Statutes "Of Harbours."	6th April, 1870.
33 Vic., 1870. Chapters 1 to 88.	1-88.			24th Oct., 1870.
			Chap. 35. An Act to divide the Parish of St. Stephen in the County of Charlotte, and to erect a separate District for Ecclesiastical purposes.	do
34 Vic., 1871. Chapters 1 to 78.	2, 4, 5, 7-18, 20, 22-78.			22nd Jan., 1872.
	3.			7th June, 1871.
			Chap. 1. An Act relating to Police Establishment in the City of Fredericton.	22nd Jan., 1872.
			Chap. 6. An Act in addition to an Act passed in the 33rd year of the Reign of Her Present Majesty, intituled: "An Act to continue and amend an Act to regulate the sale of Spirituous Liquors."	do

NEW BRUNSWICK—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
34 Vic., 1871. *Continued.*			Chap. 19. An Act to authorize the appointment of a District or Stipendiary Magistrate for the County of Gloucester. Chap. 21. An Act relating to Common Schools.	22nd Jan., 1872.
35 Vic., 1872. Chapters 1 to 73.	1-73.			7th April, 1873.
36 Vic., 1873. Chapters 1 to 103.	1-12, 14-28, 30-85, 87, 89, 90, 94-99, 101, 102.			7th Sept., 1874.
			Chap. 13. An Act further relating to the several County Courts of New Brunswick.	do
			Chap. 29. An Act to establish certain Courts in the County of Madawaska.	do
			Chap. 86. An Act to incorporate the St. George Red Granite Company (limited).	do
			Chap. 88. An Act to incorporate the Lake George Railway Company.	do
			Chap. 91. An Act to authorize David H. Budge and Samuel Stanton to erect a Boom across Eel River (near the mouth thereof) in the County of York; also side Booms and Piers in connection therewith.	do
			Chap. 92. An Act to incorporate the North-West Boom Company.	do
			Chap. 93. An Act to incorporate the Bay of Fundy Red Granite Company (limited).	do
			Chap. 100. An Act to incorporate the Black Creek Stream Driving Company.	do
			Chap. 103. An Act to incorporate certain Districts in the Parish of St. Stephen, in the County of Charlotte, to be known as the Town of Milltown.	do

37 Vic., 1874. Chapters 1 to 121.	1-121.			29th May, 1874.
			Chap. 61. An Act to further continue and amend the Act incorporating the Meduxnakik Boom Company.	do
38 Vic., 1875. Chapters 1 to 143.	1-3, 5-10, 12, 14, 15-37, 39, 41-67, 69-99, 101-108, 110, 112, 115-117, 119, 120-122, 124, 126, 128, 130-142.			25th Oct., 1876.
			Chap. 11. An Act to provide for the Establishment, Maintenance and Management of Reformatory and Industrial Schools.	8th Dec., 1876.
			Chap. 13. An Act to authorize the issue of Provincial Debentures for certain purposes.	25th Oct., 1876.
			Chap. 38. An Act to amend an Act to incorporate the Fredericton Boom Company and the several Acts in amendment thereof.	do
			Chap. 40. An Act to incorporate the Town of Moncton.	do
			Chap. 100. An Act to provide for the establishment of a Police Force and Lock-up House at Caraquet, in the County of Gloucester.	do
			Chap. 111. An Act to incorporate the Maritime Mutual Fire Insurance Company.	do
			Chap. 116. An Act to incorporate the St. Croix Wharf Company.	do
			Chap. 118. An Act to incorporate the Shediac Station Wharf Company.	do
			Chap. 123. An Act to incorporate the Belliveau Albertite and Oil Company.	do
			Chap. 125. An Act to incorporate the Red Granite Company of St. George.	do
			Chap. 127. An Act to authorize the erection of a Boom across the Jacquet River, in the County of Northumberland.	do
			Chap. 129. An Act to incorporate the Eel River Driving Company.	do
			Chap. 143. An Act to incorporate the Meduxninik Stream Driving Company.	do
39 Vic., 1876. Chapters 1 to 68.	1-50, 53-62, 64-68.			25th Oct., 1876.
			Chap. 51. An Act to incorporate the New Brunswick Red Granite Company.	do
			Chap. 52. An Act to incorporate the Lepreaux Red Granite and Freestone Company.	do

NEW BRUNSWICK—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
39 Vic., 1876. *Continued.*			Chap. 63. An Act to incorporate the Pollit River Log Driving Company.	25th Oct., 1876.
40 Vic., 1877. Chapters 1 to 50.	1, 2, 4-10, 12-24, 26, 28-50.			22nd Feb., 1878.
			Chap. 3. An Act relating to Municipalities.	do
			Chap. 11. An Act relating to Fences, Trespasses and Pounds	
			Chap. 25. An Act to regulate the sale of Spirituous Liquors in the parishes of Lancaster, Simonds and St. Martin's, in the County of St. John.	do
			Chap. 27. An Act to increase the facilities for the collection of small Debts in the City of Fredericton.	do
			Chap. 29. An Act to continue and amend an Act passed in the 16th year of the reign of Her Majesty, intituled: "An Act to incorporate the Courtenay Bay Bridge Company."	do
41 Vic., 1877. Chapters 1 to 23.	1-23.			28th Sept., 1878.
			Chap. 8. An Act to define and establish the Side Lines of Streets in the City of St. John, and to prevent encroachments on the Public Streets.	do
41 Vic., 1878. Chapters 24 to 113.	92. 24-91, 93-113.			2nd July, 1878. 28th Oct., 1879.
			Chap. 49. An Act in reference to the sale of Spirituous Liquors within the Town of Moncton.	do

42 Vic., 1879. Chapters 1 to 65.	1-65.			24th Jan., 1882.
			Chap. 29. An Act to incorporate the Sheer Boom Improvement Company.	do
			Chap. 30. An Act to incorporate the Restigouche Boom Company.	do
43 Vic., 1880. Chapters 1 to 58.	1-58.			12th July, 1881.
44 Vic., 1881. Chapters 1 to 74.	1-74.			24th July, 1882.
			Chap. 19. An Act relating to the Qualifications of Physicians and Surgeons.	do
			Chap. 44. An Act to incorporate the St. John Bridge and Railway Extension Company.	do
45 Vic., 1882. Chapters 1 to 100.	1-68, 70-100.			26th Feb., 1883.
		Chap. 69. An Act to incorporate the Fredericton and St. Mary's Bridge Company.		6th March, 1883. } 24th July, 1883. }
			Chap. 9. An Act in amendment of Chap. 51 of the Consolidated Statutes in County Courts.	6th March, 1883.
			Chap. 87. An Act to revive, continue and amend the several Acts relating to Courtenay Bay Bridge Company.	do
46 Vic., 1883. Chapters 1 to 83.	1-83.			25th Feb., 1884.
			Chap. 17. An Act in amendment of and in addition to an Act passed in the 38th year of the reign of Queen Victoria, intituled: "An Act to incorporate the Town of Moncton."	11th June, 1884.
			Chap. 37. An Act to provide for the appointment of a Police Magistrate and to establish a Lock-up in Shediac, Westmoreland County.	do

NEW BRUNSWICK—*Concluded.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
47 Vic., 1884. Chapters 1 to 66.	1-66.			4th April, 1885.
			Chap. 11. An Act to reduce the Expense of maintaining Government House, and relating to the Salary of the Private Secretary of the Lieutenant-Governor.	do
			Chap. 13 An Act respecting the granting of Licenses for the sale of Spirituous Liquors.	do
			Chap. 19. An Act respecting Law Stamps.	do

MANITOBA.

34 Vic., 1871. Chapters 1 to 36.	1-8, 10-36.		Chap. 9. An Act authorizing the appointment of Magistrates and Coroners.	19th Oct, 1871. do
35 Vic., 1872. Chapters 1 to 24.	1, 2, 4, 5, 17-24.			16th April, 1873.
			Chap. 3. An Act to amend an Act to establish a Supreme Court in the Province of Manitoba.	do
			Chap. 6. An Act for the registration of Votes.	do
36 Vic., 1873. Chapters 1 to 45.	1, 3-17, 19, 20, 22, 23, 25-31, 33-41, 45.	Chap. 2. An Act to define the privileges, immunities and powers of the Legislative Council and of the Legislative Assembly of Manitoba, and to give summary protection to persons employed in the publication of Sessional Papers.		7th Sept., 1874. do

.....	.....	Chap. 32. An Act to incorporate the Winnipeg Board of Trade.		7th Sept., 1874.
			Chap. 18. An Act to amend the Act concerning the registration of Deeds, and to introduce a better system of Registration.	do
			Chap 21. An Act to make provision for enquiries concerning Public Matters.	do
			Chap. 24. An Act respecting Municipalities.	do
			Chap. 42. An Act to impose a Tax on Wild Lands.	27th Feb., 1874.
			Chap. 43. An Act respecting Aliens.	do
			Chap. 44. The Half-breed Land Grant Protection Act.	do
			Chap. 45. An Act to incorporate the Eastern Railway Company of Manitoba.	do
37 Vic., 1873-74. Chapters 1 to 24.	1-4, 6, 8-11, 13, 16-18, 20-24.			11th Jan., 1875.
			Chap. 5. An Act to provide a fair and equitable redistribution of the Electoral Divisions of the Province.	
			Chap. 7. An Act to incorporate the City of Winnipeg.	do
			Chap. 12. An Act respecting the Court of Queen's Bench in Manitoba.	do
			Chap. 14. An Act respecting the Registration of Co-partnership.	
			Chap. 15. An Act to require certain Foreign Corporations, Associations and Co-partnerships to enregister within this Province.	do
			Chap. 19. An Act to amend the Act of 1873, to regulate the sale and traffic of Intoxicating Liquors.	do
38 Vic., 1875. Chapters 1 to 52.	1, 3, 4, 7, 8, 10, 11, 13-17, 19.			7th Oct., 1876.
		Chap. 12. An Act to regulate proceedings against and by the Crown.		6th June, 1876.
		Chap. 18. An Act respecting Estreats, Fines and Penalties and Forfeitures.		16th Aug., 1876.
		Chap. 33. An Act to afford facilities to the construction of a Bridge over the Assiniboine River, between the City of Winnipeg and St. Boniface West.		7th Oct., 1876.

MANITOBA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
38 Vic., 1875. *Continued.*		Chap. 37. An Act to amend Chap. 46, 37 Vic., intituled: "The Half-breed Land Grant Protection Act."		7th Oct., 1876.
		Chap. . An Act respecting Land Surveyors and the Survey of Lands in Manitoba.*		7th Feb. 1876.
			Chap. 2. An Act respecting the Election of Members of the Legislative Assembly of the Province of Manitoba.	7th Oct., 1876.
			Chap. 5. An Act respecting the Administration of Justice.	16th Aug., 1876.
			Chap. 6. An Act respecting Grand Jurors.	do
			Chap. 9. An Act respecting the Qualification of Justices of the Peace.	do
			Chap. 20. An Act respecting the storage of Gunpowder in and near the incorporated Towns and Cities in the Province.	7th Oct., 1876.
			Chap. 21. An Act respecting Building Societies.	do
			Chap. 22. An Act to make provision as to the custody of Insane Persons.	do
	23-25, 28, 29, 32, 34, 36, 38-40, 42-45, 47-49, 51, 52.			do
			Chap. 26. An Act to amend the Act intituled: "An Act for the protection of the Wood Lands of the Province."	do
			Chap. 27. An Act to further amend the Act to establish a system of Education in this Province.	do
			Chap. 30. An Act to amend the Act of 1873 to regulate the sale and traffic of Intoxicating Liquors.	do
			Chap. 31. An Act respecting Municipalities.	do
			Chap. 41. An Act respecting County Municipalities.	do
			Chap. 46. An Act to incorporate the Manitoba Western Railway Company.	do
			Chap. 50. An Act relating to the City of Winnipeg.	do

* This Bill was reserved for the assent of His Excellency the Governor General.

39 Vic., 1876. Chapters 1 to 29.	2, 4, 6, 13-29.			25th Oct., 1876.
			Chap. 1. An Act to amend the School Acts of Manitoba, so as to meet the special requirements of incorporated Cities and Towns.	do
			Chap. 3. An Act respecting Jurors and Juries.	do
			Chap. 5. An Act to provide for the appointment of a Fire Commissioner for the Cities and Towns in Manitoba, and to define his powers and duties.	do
			Chap. 7. An Act to make better provision for the securing of Order at Municipal Elections, and for other purposes.	do
			Chap. 8. An Act to provide for the incorporation of Mutual Fire Insurance Companies in the Province of Manitoba.	do / 22nd May, 1877.
			Chap. 9. An Act respecting the Public Works of Manitoba.	do
			Chap. 10. An Act concerning the opening of certain Public Roads.	do
			Chap. 11. An Act respecting the Bureau of Agriculture and Statistics.	
			Chap. 12. An Act respecting the Legislative Assembly.	
			Chap. 2. An Act respecting the Practice in the Courts.	20th April, 1876.
			Chap. 28. An Act to diminish the Expenses of the Legislature of the Province of Manitoba in certain respects.	do
40 Vic., 1877. Chapters 1 to 48.	1-4, 7-11, 13, 16, 18-29, 31-33, 35-42, 44, 48.			19th Feb., 1878.
			Chap. 5. An Act to amend the Act passed in the 37th year of Her Majesty's reign, intituled: "The Half-breed Land Grant Protection Act."	4th May, 1878.
			Chap. 6. An Act respecting County Municipalities.	19th Feb., 1878.
			Chap. 12. An Act to amend the Act to establish a system of Education in this Province.	do
			Chap. 14. An Act respecting the Study and Practice of Law.	do
			Chap. 15. An Act to authorize Corporations and other Institutions incorporated out of the Province of Manitoba to lend and invest Moneys therein.	do
			Chap. 17. An Act to legalize the Lists of the Parliamentary Electors of 1877 for the City of Winnipeg.	do
			Chap. 30. An Act respecting Companies for the establishment of Cemeteries in Manitoba.	do
			Chap. 34. An Act to amend the Acts relating to the sale and traffic of Intoxicating Liquors and the granting of Licenses in this Province.	do

MANITOBA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
40 Vic., 1877. *Continued.*			Chap. 43. An Act to amend the amended Act respecting the incorporation of the City of Winnipeg.	19th Feb., 1878.
			Chap. 45. An Act to incorporate the Manitoba Investment Association.	25th Oct., 1876. } 19th Feb., 1878. }
41 Vic., 1878. Chapters 1 to 38.	1-12, 15-38.			11th Oct., 1880.
			Chap. 13. An Act to create a Fund for Educational purposes.	do
			Chap. 14. An Act to regulate the sale of Intoxicating Liquors and the granting of Licenses in this Province.	do
42-43 Vic., 1879 Chapters 1 to 37	1-37.			11th Oct., 1880.
			Chap. 12. An Act respecting Grand and Petit Jurors and Juries, and to amend the Manitoba Jurors' Act.	do
43 Vic., 1880.			[The Acts of this Session do not appear to have been reported upon.]	
44 Vic., 1881. Chapter 1 to 42.		Chap. 37. An Act to incorporate the Winnipeg South Eastern Railway Company.		12th Jan., 1882.
		Chap. 38. An Act to incorporate the Manitoba Tramway Company.		3rd Nov., 1882.*
		Chap. 39. An Act to incorporate the Emerson and North Western Railway Company.		do

			Chap. 2. An Act to bring into orce and operation the Consolidated Statutes of Manitoba.	6th March, 1883.
			Chap. 7. An Act to protect Guide Posts along certain Roads in this Province	do
			Chap. 16. An Act respecting the Equity side of the Court of Queen's Bench.	
			Chap. 28. An Act for dividing the Province into Judicial Districts and establishing Courts therein.	do
			Chap. 33 An Act to incorporate the Southern Manitoba Loan Company.	do
			Chap. 34. An Act for the incorporation of the Winnipeg Suspension Bridge Company.	do
	1, 3-6, 8-15, 17-32, 35, 40-42.			do
45 Vic., 1882. Chapters 1 to 55.	1-29, 30-55.			26th June, 1883.
		Chap. 30. An Act to encourage the building of Railways in Manitoba.		3rd Nov., 1882.
			Chap. 16. An Act to amend 44 Victoria, Chap. 3, intituled: "An Act respecting Municipalities."	6th March, 1883.
			Chap. 24. An Act to amend 44 Victoria, Chap. 3, intituled: "An Act respecting Municipalities."	do
			Chap 35. An Act to incorporate the City of Brandon.	do
			Chap. 36 Charter of the City of Winnipeg, Manitoba, consolidated from the Act of Incorporation of the City of Winnipeg.	do
			Chap. 54. An Act to amend 44 Victoria, Chap. 29, intituled: "An Act respecting the profession of Land Surveyors in the Province of Manitoba."	do
46-47 Vic., 1883. Chapters 1 to 92.	1-13, 15-18, 20-37, 39-46, 48-53, 60-77, 79-82, 84-92.			18th Feb., 1884.

* This O.C. also relates to Chap. 30 of 1882.

MANITOBA—*Concluded*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
47 Vict., 1884. Chapters 1 to 79.	1-10, 12-25, 27-31, 34-65, 74-77, 79.			27th Aug., 1885.
		Chap. 26. An Act respecting Escheats and Forfeitures and Estates of Intestates.		do
			Chap. 11. An Act to amend and revise the Acts relating to Municipalities.	do
			Chap. 32. An Act respecting Liquor Licenses.	do
			Chap. 33. An Act to provide for the revocation and cancellation of Liquor Licenses in certain cases.	do
			Chap 78. An Act to consolidate and amend the several Acts of Incorporation of the City of Winnipeg.	do

BRITISH COLUMBIA.

35 Vic., 1872. Chapters 1 to 37.			Chap. 37. An Act to amend "The Qualification and Registration of Voters' Act, 1871."	30th Sept., 1872.
			Chap. . An Act to amend "The Military and Naval Settlers' Act, 1863."*	do
			Chap. . An Act to impose a Wild Land Tax.*	12th Oct., 1872.
			Chap. 4. An Act to define the privileges, immunities and powers of the Legislative Assembly, and to give summary protection to persons employed in the publication of Sessional Papers.	23rd Dec., 1872.
			Chap. 12. An Act to make provision for inquiries concerning Public Matters.	4th Jan., 1873.
			Chap. 31. An Act to amend "The Land Ordinance Act, 1870."	do
			Chap. 35. An Act respecting Municipalities.	do

* Reserved Bills.

	1-3, 5-30, 32-34, 36.		Chap. 26. An Act respecting the Registration of Births, Deaths and Marriages in the Province of British Columbia.	4th Jan., 1873.
			Chap. 36. An Act to make provision for the Registration in British Columbia of certain Foreign Companies.	do
36 Vic., 1872-73. Chapters 1 to 42.	5-22, 24-42.			do
		Chap. 2. An Act to authorize one Justice of the Peace to do any act, matter or thing heretofore to be done by two Justices of the Peace, and to give an appeal to Courts of General or Quarter Sessions.		13th March, 1874.
				9th March, 1874.
			Chap. 1. An Act to amend "The Land Ordinance, 1870."	13th March, 1874.
			Chap. 3. An Act to amend "The Mineral Ordinance, 1869."	do
			Chap. 4. An Act to amend "The Gold Mining Ordinance, 1867," and "The Gold Mining Amendment Act, 1872."	do
37 Vic., 1873-74. Chapters 1 to 25.	1, 3, 5-8, 10, 11, 13-25.			23rd Jan., 1875.
		Chap. 2. An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia.		16th March, 1875.
		Chap 9. An Act to make provision for the better Administration of Justice.		do
			Chap. 4. An Act to extend the provisions of "The Coroner's Jury Act, 1866," to the Mainland of British Columbia.	do
			Chap. 12. An Act to make better provision for the Qualification and Registration of Voters.	do
38 Vic., 1875. Chapters 1 to 19.	1-4, 7-9, 10, 11, 12, 13, 14, 15, 16, 17, 19.			26th Oct., 1875.
		Chap. 6. An Act to make provision for the better Administration of Justice.		5th May, 1876.

BRITISH COLUMBIA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
38 Vic., 1875. *Continued.*			Chap. 5. An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia.	10th Nov., 1875. 6th May, 1876.
			Chap. 18. An Act to make Powers of Attorney valid in certain cases.	7th Jan., 1876. 6th May, 1876.
39 Vic., 1876. Chapters 1 to 29.	1, 4, 6, 7, 9, 10, 13-23, 25-29.			4th Nov., 1876.
			Chap. 2. An Act to amend and consolidate "The Public School Acts."	do
			Chap. 3. An Act to provide for the maintenance of the Waggon Road from Yale to Cariboo.	do
			Chap. 5. An Act to make better provision for the Qualification and Registration of Voters.	do
			Chap. 8. An Act to assess, levy and collect Taxes on Property in British Columbia.	do 24th May, 1877.
			Chap. 11. An Act to amend "The License Ordinance, 1867."	do
			Chap. 12. An Act to further amend "The License Ordinance, 1867."	do
			Chap. 24 An Act to amend "The Power of Attorney Act, 1875."	4th Nov. 1876.
40 Vic., 1877. Chapters 1 to 35.	1-4, 7, 8, 12, 16, 17, 18, 20, 21, 23, 25-29, 30, 31, 34.			12th Oct, 1877.
		Chap. 22. An Act to provide for the better Administration of Justice.		16th May, 1878.
		Chap. 32. An Act to incorporate the Alexandra Company (Limited).		do
		Chap. 33. An Act to incorporate the British Columbia Insurance Company (Limited).		do

			Chap. 5. An Act respecting the qualification for the offices of Mayor and Councillors in certain Municipalities.	12th Oct., 1877.
			Chap. 6. An Act to enable Municipal Corporations to pass By-Laws for the sale of Land for Taxes.	do
			Chap. 9. An Act to authorize certain Municipalities to retain and use the Court Fines, Fees and Forfeitures as part of the Civic Revenue.	do
			Chap. 10 An Act to amend "The Assessment Act, 1876."	do
			Chap. 11. An Act to prevent the destruction of Pasturage on the Islands in the Gulf of Georgia.	do
			Chap. 13. An Act to encourage the Mining of Gold Bearing Quartz.	do
			Chap. 14. An Act relating to Minerals other than Coal.	do
			Chap. 15. An Act to make Regulations with respect to Coal Mines.	do
			Chap. 19. An Act to amend the Law relating to Procedure at Election of Members of the Legislative Assembly of British Columbia.	do
			Chap. 24. An Act to consolidate the Laws relating to the Legal Profession in this Province.	12th Oct., 1877. 28th Feb., 1878.
			Chap. 35. An Act to amend "The Gold Mining Amendment Act, 1872."	12th Oct., 1877.
42 Vic., 1878. Chapters 1 to 38.	1-19, 21-24, 26-34, 38.			1st Aug., 1879.
		Chap. 25. An Act relating to the Crown Lands in British Columbia.		22nd Aug., 1879.
		Chap. 35. An Act to provide for the better collection of Provincial Taxes from Chinese.		23rd Aug., 1879.
		Chap. 37. An Act to amend "The Cariboo Waggon Road Tolls Act, 1876."		2nd Oct., 1879.
			Chap. 20. An Act to make further provision for the Administration of Justice.	1st Aug., 1879.
			Chap. 36. An Act to amend "The Assessment Act, 1876."	28th Oct., 1879.
43 Vic., 1879. Chapters 1 to 37.	1, 3, 4-11, 14, 16-22, 24-29, 31-37.			15th May, 1880.
			Chap. 2. An Act to enable the Lieutenant-Governor in Council to grant Charters for the erection of Toll Bridges.	do

BRITISH COLUMBIA—*Continued.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
43 Vic., 1879. *Continued.*			Chap. 3. An Act to protect Winter Stock Ranges.	15th May, 1880. } 30th June, 1880. }
			Chap. 12. An Act to amend the Practice and Procedure of the Supreme Court of British Columbia, and for other purposes relating to the better Administration of Justice.	15th May, 1880.
			Chap. 13. Judicial District Act, 1879.	do
			Chap. 15 An Act respecting "The Sumass Dyking Act, 1878."	30th June, 1880.
			Chap. 23. An Act to amend "The Licenses Ordinance, 1867."	do
			Chap. 30. The Public School Act, 1879."	15th May, 1880.
43 Vic., 1880. Chapters 1 to 32.	1-27, 30-32.			29th July, 1881.
		Chap. 28. An Act to amend "The Cariboo Waggon Road Tolls Act, 1876."		do
		Chap. 29. An Act respecting Tolls on the Cariboo Waggon Road.		do
			Chap. 4. An Act to abolish the priority of and amongst Execution Creditors.	do
			Chap. 10. An Act respecting the fraudulent preferences of Creditors by persons in insolvent circumstances.	do
44 Vic., 1881. Chapters 1 to 28.	2-14, 16-28.			27th June, 1882.
			Chap. 1. An Act to carry out the objects of the better Administration of Justice, 1878.	do
			Chap. 15. An Act to amend "The Gold Mining and Mineral Acts."	do

45 Vic., 1882. Chapters 1 to 18.	1-7, 9-18.			12th May, 1883.
		Chap. 8. An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal.		do
46 Vic., 1883. Chapters 1 to 37.	1-25, 29-37.			17th Oct., 1883.
		Chap. 26. An Act to incorporate the Fraser River Railway Company.		do
		Chap. 27. An Act to incorporate the New Westminster Railway Company.		do
			Chap. 25. An Act to incorporate the Columbia and Kootenay Railway Company.	19th Oct., 1883.
			Chap. 5. An Act relating to County Courts.	25th Feb., 1884.
			Chap. 10. An Act to amend "The Sumass Dyking Act, 1878."	do
			Chap. 14. An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province.	do
47 Vic., 1884. Chapters 1 to 35.		Chap. 3. An Act to prevent the Immigration of Chinese.		8th April, 1884.
			Chap. 2. An Act to prevent Chinese from acquiring Crown Lands.	29th March, 1885.
			Chap. 4. An Act to regulate the Chinese Population of British Columbia.	do
	1, 5-9, 11-35.		Chap. 10. An Act to consolidate and amend the Laws relating to Gold and other Minerals, excepting Coal.	do

PRINCE EDWARD ISLAND.

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
37 Vic., 1874. Chapters 1 to 23.			Chap. 30. An Act to vest a certain portion of Government House Farm in the City of Charlottetown for certain purposes therein mentioned.	3rd April, 1874.
		Chap. . The Land Purchase Act, 1874.*		26th Dec., 1874.
			Chap. 1. An Act to amend the Act passed in the 30th year of the reign of Her Majesty Queen Victoria, intituled: "An Act to establish County Courts of Judicature in this Island."	11th Jan., 1875.
			Chap. 8. An Act to consolidate and amend the Laws enabling the Supreme Court of Judicature to order the examination of Witnesses upon Interrogatories and otherwise.	do
			Chap. 13. An Act to incorporate the Prince Edward Island Chamber of Commerce.	do
			Chap. 21. An Act for amending the Law relating to Controverted Elections of Members to serve in the General Assembly of Prince Edward Island, of providing more effectually for the prevention of Corrupt Practices at Election.	do
				15th Jan., 1875.
38 Vic., 1875. Chapters 1 to 32.	2-5, 7-32.			23rd Nov., 1875.
			Chap. 1. An Act to incorporate the Merchants' Marine Insurance Company of Prince Edward Island.	30th Oct., 1875.
			Chap. 6. An Act to amend the Act to extend the Criminal Jurisdiction of the Police Court in the City of Charlottetown.	do
			Chap. . The Land Purchase Act, 1875.*	14th June, 1875.

* Reserved Bills.

39 Vic., 1876. Chapters 1 to 30.		Chap. . An Act to amend "The Land Purchase Act, 1875."*		21st July, 1876.
	1, 4, 6-8, 11-15, 18-20, 22-25, 29-30.			14th Nov., 1876
			Chap. 2. An Act regulating the sale by License of Spirituous Liquors.	do
			Chap. 5. An Act to facilitate the purchase of the Estates of Proprietors under "The Land Purchase Act, 1875."	21st July, 1876.
			Chap. 9. An Act to amend "The Insolvent Debtors Act."	14th Nov., 1876.
			Chap. 16. An Act allowing the Stipendiary Magistrate of the City of Charlottetown to grant Relief to Insolvent Debtors	do
			Chap. 17. An Act relating to Coroners' Inquests	do
			Chap. 21. An Act respecting the Town of Summerside.	do
			Chap. 26. An Act to incorporate the Acadia Provident Association.	do
			Chap. 27. An Act for the incorporation of the Victoria Boring and Mining Co.	do
			Chap. An Act to vest a certain portion of Government House Farm in the City of Charlottetown.*	8th Dec., 1876.
40 Vic., 1877. Chapters 1 to 19.			Chap. 1. The Public Schools Act, 1877.	12th Nov., 1877.
			Chap. 14. An Act to amend an Act to incorporate the Town of Charlottetown.	4th May, 1878.
			Chap. 16. An Act to alter and amend the Act to incorporate the Minister and Trustees of St. James' Church, Charlottetown.	do
			Chap. 20. The Registration of Electors and Ballot Act of Prince Edward Island, 1877.	do
	2-13, 17-19.			do
41 Vic., 1878. Chapters 1 to 30.				25th June, 1879.
	1-24.		Chap. . An Act to repeal certain Acts relating to the Church of England in this Province, and to make provisions in lieu thereof.*	do
			Chap. 12. The County Courts Amendment Act,	do
			Chap. . An Act to incorporate the Provincial Grand Orange Lodge of Prince Edward Island and the subordinate Lodges in connection therewith.*	do

* Reserved Bills.

PRINCE EDWARD ISLAND—*Concluded.*

Year.	Acts Allowed.	Acts Disallowed.	Acts Commented upon but not Disallowed.	Date of Order in Council.
42 Vic., 1879. Chapters 1 to 24.	1-24			27th April, 1881.
43 Vic., 1880. Chapters 1 to 24.	1-24.			17th Nov., 1881.
			Chap. 13. An Act to amend an Act regulating the sale by license of Spirituous Liquors.	do
44 Vic., 1881. Chapters 1 to 36.	1-17, 19-36.			24th Nov., 1882.
			Chap. 18. An Act respecting the administration by the Crown of the Estates of Intestates in certain cases.	1st Dec., 1882.
45 Vic., 1882. Chapters 1 to 29.	1-29.			26th Feb., 1883.
46 Vic., 1883. Chapters 1 to 29.	1-29.			20th March, 1884.
			Chap. 8. An Act to continue certain Acts therein mentioned, viz.: 24 Vic., Chap. 7, and 26 Vic., Chap. 10.	do
			Chap. 11. An Act relating to the Acts of the Dominion Parliament respecting Insolvent Banks, Insurance Companies, Loan Companies, Building Societies and Trading Corporations.	do
			Chap 25. An Act to incorporate the Island Steam Navigation Company of Prince Edward Island.	do
47 Vic., 1884. Chapters 1 to 26.	1-26.			7th April, 1885.

Year and Session.	Ordinances Allowed.	Ordinances Disallowed.	Ordinances Commented upon but not Disallowed.	Date of Order in Council.
1878.			[These Ordinances do not appear to have been reported upon.]	
1879.			[These Ordinances do not appear to have been reported upon.]	
1881.	Nos. 1-13.			27th June, 1882.
1882.			[These Ordinances do not appear to have been reported upon.]	
1883.	Nos. 2-21.		No 1. An Ordinance respecting Infectious and Contagious Diseases. No. 2. An Ordinance respecting Municipalities.	30th Sept., 1884. do
1884.	Nos. 1-27, 29-36.	No. 28. An Ordinance exempting certain Property from Seizure and Sale under Execution.		15th Aug., 1875.
			No. 4. An Ordinance respecting Municipalities. No. 7. An Ordinance respecting Controverted Elections. No. 31. An Ordinance respecting Preferential Assignments.	do do

INDEX

A

PAGE.

ACADIA Provident Association, Act to incorporate (P. E. I., 1876)..... 877

ACTS, Provincial:

Course to be pursued by Dominion Government *re* disallowance. 5

Correspondence with Colonial Secretary *re* disallowance..... 6-8

Ministerial responsibility in connection with disallowance of..... 10-23

ADMINISTRATION of Justice, Act to make further provision for (Ontario, 1874)..... 83

ADMINISTRATION of Justice in Northerly and Westerly parts of Ontario, Act *re*.....162, 169, 171

Reports of Minister of Justice..... 162, 169

Order in Council..... 168

Proclamation disallowing Act..... 171

ADMINISTRATION of Justice, Act to improve (Nova Scotia, 1870 and 1884). 341, 427

ADMINISTRATION of Justice, Act respecting (Manitoba, 1875)..... 620, 621

ADMINISTRATION of Justice, Act to make better provision for, (British Columbia, 1873 and 1874)..... 737-744

Correspondence..... 737, 744

Memorial County Court Judges..... 738

Reports of Minister of Justice..... 739, 743

Proclamation disallowing Act..... 742

Order in Council..... 743

ADMINISTRATION of Justice, Act to make better provision for (British Columbia, 1875)..... 749-753

Reports of Minister of Justice..... 749, 751

Order in Council..... 750

Correspondence..... 750, 751

Proclamation disallowing Act..... 753

ADMINISTRATION of Justice, Act to provide for better (British Columbia, 1877).....778, 780 782

Report of Minister of Justice..... 778, 781

Order in Council and Proclamation of disallowing Act..... 780, 782

ADMINISTRATION of Justice, Better, Act, 1878 (British Columbia, 1878)..... 786

ADMINISTRATION of Justice, Better, Act, 1878, Act to carry out provisions of (British Columbia, 1881)..... 815

ADMINISTRATIVE Matters, Act respecting certain (Ontario, 1875-1876)..... 135

ALBERT Railway, Act to extend time for building (New Brunswick, 1867 68)..... 432

ALEXANDRA Company, Limited, Act to incorporate (British Columbia, 1877).....776, 781, 782

Reports of the Minister of Justice..... 776, 781

Proclamation disallowing..... 782

ALIENS, Act respecting (Manitoba, 1873).....589, 591, 593

Report of Lieutenant-Governor..... 589

Report of Minister of Justice..... 591

Proclamation assenting to Act..... 593

ALIENS' Ordinance, 1867, Legislation respecting (British Columbia, 1872-73)..... 718-721

PAGE.

ALLIANCE Insurance Company, Act to incorporate (Ontario, 1875)..... 127, 134
ALLOWANCE, Roads, Act *re* Government (Ontario, 1870-71) 75
ANGLO French Steamship Company, Act to incorporate (Nova Scotia 1874) 351
ANIMALS, Domestic, Ordinance *re* Infectious or Contagious Diseases of (North-West Territories, 1883)..... 924
APPRENTICES and Minors, Act respecting (Ontario, 1875) 129, 134
ARTS, Manufactures, &c., Act to encourage (Ontario, 1877)..... 144
ASSESSMENT Act, 1876, Act to amend (British Columbia, 1877)..... 769, 797
ASSINIBOINE and Red River Navigation Company (Manitoba, 1872)..... 582, 585
ASSIGNMENTS, Preferential, Ordinance respecting (N.W.T., 1884) 931
ATLANTIC Insurance Company, Act to incorporate (Quebec, 1874-75..... 250
ATTORNEYS General, Reports of:
Ontario..... .....63, 85, 91, 106, 107, 151, 188
Nova Scotia..... 408
New Brunswick..... 512, 521
British Columbia 696-709, 754-761, 789
Prince Edward Island..... 854, 904

B

BAGOTVILLE, Village of, Act to erect into separate Municipality (Quebec, 1875) 275
BALLOT Act (Ontario, 1874)..... 82
BALLOT, Voting by, at Municipal Elections, Act to provide for (Ontario, 1875)..... 129, 134
BALLOT Act and Registration of Electors (Prince Edward Island, 1877).. 900
BANKRUPTCY. (See also "*Insolvent Debtors.*")
BANKRUPTCY Act, Act to continue (Ontario, 1867-68)..... 40
BANKRUPTCY, Act *re* subject of (Quebec, 1868)..... 223, 230
BELLIVEAU Albertite & Oil Co., Act to incorporate..... 518
BIRDS and Animals, Preservation of (Nova Scotia, 1869) Act to amend Statute *re*..... .....340, 385-389
Reports of the Minister of Justice 340, 381
Order in Council. 385
Correspondence and Despatches..... 385, 389
BIRTHS, Deaths and Marriages, Acts respecting Registration of,.....336, 703, 715, 716
Nova Scotia, 1868..... 336
British Columbia, 1872..... .....703, 715, 716
BOARD of Trade (Guelph), Act to incorporate (Ontario, 1867-68).. 40
BOARD of Trade (Winnipeg), Act to incorporate (Manitoba, 1873)..598, 599, 602, 603
BOOM across Jacquet River, Act to authorize (New Brunswick, 1875)..... 518
BRANDON, City of, Act to incorporate (Manitoba, 1882)..... 678
BRIDGE Companies, Legislation respecting.....561, 628, 630
BRIDGE over Assiniboine River, Act to afford facilities for constructing, (Manitoba, 1875) 628, 630
BRITISH Columbia Insurance Companies, Act to incorporate (British Columbia, 1878).....776, 781, 782
BUILDING Societies, Act respecting (Manitoba, 1875)..... 625

BRITISH COLUMBIA LEGISLATION:

PAGE.

1872—Despatch of Lieutenant-Governor 695
Reports of Attorney General McCreight 696-709
Voters' Qualification and Registration of, Act to amend Act 1871 ..... 703, 709-711
Military and Naval Settlers' Act, 1863, Act to amend 706, 707, 711, 712
Wild Land Tax, Act to impose 708, 712, 713
Legislative Assembly, Act to define Privileges, &c 696, 714, 717
Inquiries concerning Public Matters 700, 715, 716, 717
Land Ordinance, 1870, Act to amend 705, 715, 716, 718
Municipalities, Act respecting 705, 715, 716
Registration of Births, Deaths and Marriages 703, 715, 716
1872-73—Aliens' Ordinance, 1867 718-721
Act to render Legitimate Children born out of Wedlock 721, 722
Sales of Lands in British Columbia since 1870, Act legalizing 722-726
General Report 726
Justice of Peace, Act to authorize to do acts, &c., done by two Justices of Peace, on appeal, &c 727
Land Ordinance, 1870, Act to amend 728, 729
Mineral Ordinance, 1869, Act to amend 728, 729
Gold Mining Ordinance and Gold Mining Amendment Act, 1872, Act to amend 728, 729
1873-74—General Report 730
Crown Lands in British Columbia, Acts to amend and consolidate Laws affecting 730-736
Coroners' Jury Act, 1866, Act to extend to Mainland of British Columbia 737
Administration of Justice, Act to make better provision for 737-744
1875—General Report 745
Crown Lands in British Columbia, Acts to amend and consolidate Laws *re* 746, 747, 750, 752
Powers of Attorney, Act to make valid in certain cases 748, 750, 751
Administration of Justice, Act to make better provision for 749-753
1876—Reports of Mr. Attorney-General Elliott 754-761
General Report 761
Public School Acts, Act to amend and consolidate 762
Qualification of Voters, Act to make better provision for 763
Taxes on Property in British Columbia, Act to assess, levy and collect 763, 766
License Ordinance, 1867, Act to amend and Act to further amend 764
Power of Attorney Act, 1875, Act to amend 765
1877—General Report 768
Gold Mining Amendment Act, Act to amend 767, 777
Mayor and Councillors in certain Municipalities, Act respecting qualification 768
Court Fines, fees, &c., Act to authorize certain Municipalities to retain and use 768
Assessment Act, 1876, Act to amend 769
Pasturage, Act to prevent destruction of in Islands in Gulf Georgia 769
Gold Bearing Quartz, Act to encourage Mining of 770
Thistles, Act to prevent the spread of 770
Minerals other than Coal, Act relating to 770
Coal Mines, Act to make Regulations with respect to 772

PAGE.

BRITISH COLUMBIA LEGISLATION:—

1877—Election of Members of Legislative Assembly, Act to amend Law relating to..... 773
Alexandra Company, Limited, Act to incorporate..... 775, 781, 782
British Columbia Insurance Company, Act to incorporate... 776, 781, 782
Administration of Justice, Act to provide for better.... 778, 780, 781, 882
Legal Profession, Act to consolidate Laws relating to..... 780
1878—General Report..... 784
Better Administration of Justice Act, 1878..... 786
Qualification and Registation of Voters' Amendment Act 1878; 786, 787, 796
Sumass Dyking Act, 1878..... 788, 789, 791
Chinese Tax Act, 1878..... 792, 793-796, 797, 798, 799
Crown Lands in British Columbia, Act relating to..... 796, 798, 799
Assessment Act, 1876, Act to amend 797
Cariboo Waggon Road Tolls Amendment Act, 1878..... 800, 804, 805
1879—General Report..... 806
Toll Bridges, Act to enable Lieut.-Governor to grant Charters for..... 807
Coroners, Act respecting..... 807
Public School Act, 1879..... 805
Practice and Procedure of Supreme Court of British Columbia, and *re* Better Administration of Justice..... 809, 810
Judicial District Act, 1879..... 810
Sumass Dyking Act, 1878, Act respecting..... 810
1880—General Report..... 811
Execution Creditors, Act to abolish priority of and amongst 812
Cariboo Waggon Road Tolls Act, 1876, Act to amend..... 812, 813
Tolls on Cariboo Waggon Road, Act respecting..... 812, 813
1881—General Report..... 814
Administration Justice Act, Judicial Districts Act, Act to carry out provisions of..... 815
Gold Mining and Mineral Acts, Act to amend..... 815
1882—General Report..... 816
Gold and other Minerals, except Coal, Act to Consolidate and amend Laws respecting..... 817, 818
1883—Fraser River Railway Company, Act to incorporate..... 819-821
New Westminster Southern Railway Company, Act to incorporate..... 819-821
Sumass Dyking Act, 1878, Act to amend 821, 825, 828, 830
Columbia and Kootenay Railway and Transportation Company, Act to incorporate..... 825-829
County Courts, Act relating to..... 828
1884—Chinese Immigration, Act to prevent..... 831-833
General Report..... 833
Crown Lands, Acts to prevent Chinese acquiring..... 834
Chinese population (British Columbia), Act to regulate..... 834
Gold and other Minerals, except Coal, Act to consolidate and amend Laws respecting..... 834

C

CANADA Marine Insurance Co., Act to incorporate (Quebec, 1868)..... 234
CANADIAN Electric Light Co., Act to incorporate (Quebec, 1881)..... 312

PAGE.

CARIBOO Waggon Road Tolls Amendment Act, 1878 (B.C., 1878).....800, 804, 805
Report of the Minister of Justice..... 800
Proclamation disallowing the Act..... 804
Correspondence..... 805
CARIBOO Waggon Road Tolls Act 1876, Act to amend (B.C., 1880)..... 812, 813
Report of Minister of Justice..... 812
Proclamation disallowing..... 813
CEMETERY Companies, Act respecting establishment of (Manitoba, 1877). 646
CENTRAL Bank of New Brunswick, Act relating to (N.B., 1867-68)..... 434, 435
CENTRAL Prison, Act *re* (Ontario 1870-71)..... 74
CHAMBER of Commerce, Act to incorporate (Prince Edward Island, 1874) 843
CHAMBLY Hydraulic Manufacturing Co., Act to incorporate, (Quebec, 1868)..... 234
CHARLOTTETOWN, Town of, Act to appoint Stipendiary Magistrate for, (Prince Edward Island, 1875)..... 845
CHARLOTTETOWN, Town of, Act to amend Act to incorporate (P.E.I., 1877) 898
CHEZZETCOOK Dyke, Act respecting Lower, (Nova Scotia, 1876)..... 376
CHILDREN, born out of Wedlock, Act to render legitimate (B.C., 1872-73) 721, 722
CHINESE Tax Act, 1878 (British Columbia, 1877) 791, 793-796, 799, 800
Correspondence, Despatches, &c.....791, 793, 796, 800
Petition of Chinese Merchants..... 792
Petition of Salmon Canners..... 792
Report of Minister of Justice..... 797
Order in Council..... 798
Proclamation disallowing Act..... 799
CHINESE Immigration, Act to prevent (British Columbia, 1884)..... 831-833
Report of Minister of Justice..... 831
Order in Council and Proclamation disallowing..... 832
Despatches of Colonial Secretary..... 833
CHINESE acquiring Crown Lands in British Columbia, Act to prevent (British Columbia, 1884)..... 834
CHINESE population, Act to regulate (British Columbia, 1884)..... 834
CHURCH of England in Prince Edward Island, Act to repeal Acts relating to, (Prince Edward Island, 1878)..... 901-905
Correspondence, Despatches, &c..... 901, 903, 905
Report of Minister of Justice..... 902
Order in Council..... 902
Proclamation giving Assent to Act..... 903
Report of Mr. Attorney-General Sullivan..... 904
CHURCH, St. James, at Charlottetown, Act *re* Ministers and Trustees of (Prince Edward Island, 1877)..... 900
CLIFTON Suspension Bridge Co., Act to incorporate (Ontario, 1867-68)..... 40
COAL, Minerals other than, Acts relating to.....772, 817, 818, 834
COLONIAL Secretary, Correspondence with, *re* Provincial Acts..... 6-8
COLONIAL Secretary, Correspondence with, *re* Ministerial Responsibility in connection with Disallowance of Porvincial Acts.....10-14, 19, 22-25
COLONIAL Secretary, Correspondence with, *re* appointment of Queen's Counsel..... 26, 27
COLONIAL Secretary, Correspondence with, *re* Ontario Acts, 1867-68..... 50
COLCHESTER Lumber Driving and Manufacturing Co., Act to incorporate (Nova Scotia, 1875)..... 370
COLLECTION of small debts in City of Fredericton, Act to facilitate collection of (New Brunswick, 1877)..... 528
COLUMBIA & Kootenay Railway and Transportation Co., Act to incorporate (British Columbia, 1883)..... 825, 830
Orders in Council.....825, 828, 830
Reports of Minister of Justice..... 826, 829

PAGE.

COMMERCIAL Corporations, Act to impose direct taxes on (Quebec, 1882) 319
COMMON Schools, Act relating to (New Brunswick, 1871.) See "*Schools.*".
COMMISSIONERS, Fire, in Cities and Towns of Manitoba, Act to provide for appointment of, (Manitoba, 1876) 637
COMMISSIONERS of Germantown Lake, Act to legalize Assessment, &c. (New Brunswick 1879) 543
CONSOLIDATED Statutes, Manitoba, Act respecting (Manitoba, 1881) 670
CO-PARTNERSHIPS, Registration of, Act respecting (Manitoba, 1873-74) 608
CO-PARTNERSHIPS, &c., Foreign, Registration of, Act respecting (Manitoba 1873-74) 608
CORONERS and Magistrates in Manitoba, Act authorizing appointment of (Manitoba, 1871) 578
CORONERS' Jury Act 1886, Act to extend provisions of, to Mainland, British Columbia (British Columbia, 1873-74) 737
CORONERS, Act respecting, (British Columbia, 1879) 807
CORONERS' Inquests, Act relating to (Prince Edward Island, 1876) 877
CORPORATIONS, Foreign, Act respecting enregistering of (Man., 1873-74). 608
COUNTY Courts, Act respecting (Ontario, 1868-69) 48
COUNTY Courts, Act to establish (Nova Scotia, 1874) 352, 365
COUNTY Courts of New Brunswick, Act further relating to (N.B., 1873).. 508
COUNTY Courts, Act amending chap. 51 C.S. New Brunswick, relating to (New Brunswick, 1882) 561
COUNTY Courts of Judicature, Act to establish in Prince Edward Island (Prince Edward Island, 1874) 843
COUNTY Courts, Amendment Act (Prince Edward Island, 1878) 905
COUNTY Court Judges, Act respecting (Ontario, 1875-76) 137
COUNTY Municipalities, Act respecting (Manitoba, 1875) 628, 643
COURTS in County Madawaska, Act to establish certain (N.B., 1873) 508
COURT, Supreme, in Manitoba, Act to amend Act to establish (Man., 1872). 586
COURT, Supreme, New Brunswick, Act to facilitate transaction of business in (New Brunswick, 1879) 542, 543
COURT of Queen's Bench (Manitoba), Act respecting, (Manitoba, 1874-74) 607, 609-614
COURTENAY Bay Bridge Co., Act to continue, revive and amend Act *re* (New Brunswick, 1882) 561
CRÉDIT Foncier du Bas Canada, Act *re* (Quebec, 1875) 278
CROWN Lands in British Columbia, Act to amend and consolidate Laws respecting (British Columbia, 1873-74) 730-736
Reports of Minister of Justice 730, 735
Order in Council 735
Proclamation disallowing the Act 736
CROWN Lands in British Columbia, Act to amend and consolidate Laws respecting (British Columbia, 1875) 746, 747, 750, 752
Reports of Minister of Justice 746, 750
Orders in Council 747, 752
CROWN Lands in British Columbia, An Act relating to (B.C., 1878) 796, 798, 799
Report of Minister of Justice 796
Order in Council 798
Proclamation disallowing the Act 799
CROWN Lands in British Columbia, Act to prevent Chinese acquiring (British Columbia, 1884) 834
CROWN Lands and Crown Land Surveyors, Act in reference to, (N.S., 1881) 401
CUMBERLAND Driving Company, Act to incorporate (Nova Scotia, 1876) 375

D

PAGE.

DARTMOUTH, Town of, Act *re*-supplying with water (Nova Scotia, 1876).. 376
DEBTS, Collection of small, in City of Fredericton, Act to facilitate (New Brunswick, 1877) 528
DEEDS, Registration of, Act to amend Act respecting (Manitoba, 1873).. 597
DISALLOWANCE of Provincial Acts:
Course to be pursued by Dominion Government..... 5
Correspondence with Colonial Secretary in *re*..... 6-8
Ministerial responsibility in connection with..... 10-25
Reports of Minister of Justice *re* course of Dominion Government 5
DISEASES, Infectious or contagious of Domestic Animals, Ordinance *re* (North-West Territories, 1883)..... 924
DIVISION Courts, Act to amend Act respecting (Ontario, 1875)..... 129, 134

E

EASTERN Counties' Railway Co., Act to incorporate (Nova Scotia, 1874)... 352
EASTERN Extension Railway, Act respecting (Nova Scotia, 1883)..... 420
EASTERN Steamship Co., Act to incorporate..... 364,365
Report of Minister of Justice..... 364
Proclamation disallowing Act..... 365
EASTERN Railway of Manitoba, Act to incorporate.....589,592,594
Report of Lieut.-Governor..... 589
Report of Minister of Justice..... 592
Proclamation giving Assent to Act..... 594
EDUCATION, System of, Act further to amend Act to establish (Man., 1875) 626,644
EEL River, Driving Company, Act to incorporate (New Brunswick, 1875) 518
ELECTIONS, Municipal, Corrupt Practices' Act (Ontario, 1871-72)..... 76
ELECTIONS of Members to Legislative Assembly, and trial of Elections Act *re* (Ontario, 1873)..... 78
ELECTION of Members, Legislative Assembly (Quebec), Act respecting (Quebec, 1874-75)..... 249
ELECTION of Members to Legislative Assembly (Manitoba), Act respecting (Manitoba, 1875)..... 624
ELECTIONS, Municipal, Act to make better provision for securing order at (Manitoba, 1876)..... 637
ELECTION of Members to Legislative Assembly (British Columbia), Act relating to and to amend Law (British Columbia, 1877)..... 773
ELECTION of Members to Legislative Assembly (Prince Edward Island), Act relating to Controverted (Prince Edward Island, 1874). 844
ELECTIONS, Controverted, Ordinance respecting (North-West Territories, 1884..... 930
ELECTION Petitions and prevention of Corrupt Practices at Elections, Act *re* (Nova Scotia, 1875)..... 367
ELECTORS, Parliamentary Lists (Winnipeg, 1877), Act to legalize (Manitoba, 1877)..... 646
ELECTORS, Registration and Ballot Act (Prince Edward Island, 1877)..... 900
EMIGRATION Aid Societies in Ontario, Act respecting incorporation of (Ontario, 1873)..... 78
EMERSON and North-Western Railway Co., Act to incorporate.....661,663,667,668
Reports of Minister of Railways and Canals..... 661
Order in Council..... 663
Report of Minister of Justice..... 667
Proclamation disallowing the Act..... 668

PAGE.

EMERSON and West Lynne, Act uniting Towns of 682-688
Correspondence 682,687,688
Petition of Residents of Emerson to Governor-General 683
Attorney-General, Manitoba, to Minister of Justice 685
ENQUIRIES Concerning Public Matters, Act to make provision for (Manitoba, 1873) 597
ENQUIRIES Concerning Public Matters, Act to make provision for (British Columbia, 1872) 700,715-717
ESCHEATS and Forfeitures, Act to amend Law respecting (Ontario, 1874).. 88-149
Reports of Minister of Justice 88,97,102,104
Orders in Council 89,100,103,106
Correspondence and Despatches 89
Reports of Mr. Attorney-General Mowat 91,106,107
Proclamation disallowing Act 101
ESCHEATS and Forfeitures, Act to amend Law respecting (Ontario, 1877)... 142,149
ESCHEATS and Forfeitures and Estates of Intestates (Manitoba, 1884). 693,694
Report of Minister of Justice 693
Proclamation disallowing 694
ESTREATS, Act respecting (Nova Scotia, 1879) 397,398
ESTREATS, Penalties, and Forfeitures, Act respecting (Manitoba, 1875).... 622,623
Report of Minister of Justice 622
Order in Council and Proclamation disallowing 623
ESTATES of Intestates, Act respecting Administration of (Ontario, 1877).. 142
EVIDENCE, Law of, Act to amend defects in (Ontario, 1882) 203
EXAMINATION of Witnesses, Act to consolidate and amend Laws to enable Supreme Court, P.E.I., to order, (Prince Edward Island, 1874) 843
EXECUTION Creditors, Act to abolish priority of and amongst (Ontario, 1880) 176
EXECUTION Creditors, Act to abolish priority of and amongst (British Columbia, 1880) 812
EXECUTION, Act to exempt Homesteads from Sale or Levy under (New Brunswick, 1867-68) 433
EXEMPTION of certain property from Seizure or Sale under Execution, Ordinance *re* (North-West Territories, 1884) 933,934
Report of Minister of Justice 933
Order in Council 934
Proclamation disallowing the Act 934
EXPENDITURE of Province of Manitoba, Act to diminish 631-636
Correspondence 631
Report of Minister of Justice 634
Order in Council 635

F

FACTORIES Act, (Ontario, 1884) 217,218
FIRE Insurance Company, Act to incorporate the "Home" 139
FIRE Insurance Company, Act to incorporate the "Union" 140
FIRE Insurance Company, Act to incorporate the "Standard" 148
FIRE Insurance Company, Act to incorporate the Nova Scotia "Mutual" ... 344
FIRE Insurance Company, Mutual, Act to provide for incorporation of in Manitoba (Manitoba, 1876) 637,639
FIRE Commissioner in Cities and Towns in Manitoba, Act to provide for appointment of, (Manitoba, 1878) 637

PAGE.

FINES, Fees, &c. (Court), Act to enable certain Municipalities to retain and use 768
FORFEITURES, Escheats and Penalties, Act respecting (Manitoba, 1875).... 622,623
FRASER River Railway Company, Act to incorporate (British Columbia, 1883) 819,821

G

GLOBE Marine Insurance Company, Act to incorporate (Nova Scotia, 1875) 368,373
GOLD Mining Ordinance and Gold Mining Amendment Act, Act to amend (British Columbia, 1872-73) 728,729,767,777
GOLD Mining Act, Act to amend (British Columbia, 1881) 815
GOLD Bearing Quartz, Act to encourage Mining of (British Columbia, 1877) 770
GOLD and other Minerals, except Coal, Act to consolidate and amend Laws respecting (British Columbia, 1882) 817,818
Report of the Minister of Justice 817
Order in Council and Proclamation disallowing 818
GOLD and other Minerals, except Coal, Act to consolidate and amend Laws respecting (British Columbia, 1884) 834
GOODHUE, Hon. J., Estate of, Act respecting Settlement of, (Ontario, 1870-71) 68-73
Despatch of Lieutenant-Governor 68
Memorial of Mr. Becher to Lieutenant-Governor 69
Summary of Objections to Act 71
Report of Minister of Justice and Order in Council 73
GOVERNMENT House, Act respecting reduction of expense of maintaining (New Brunswick, 1884) 574
GOVERNMENT House Farm, Act to vest in City Charlottetown (Prince Edward Island, 1874) 836-838
Report of Minister of Justice 836
Order in Council 836
Despatch from Colonial Secretary 837
GOVERNMENT House Farm, Act to vest in City Charlottetown (Prince Edward Island, 1876) 878-880
Report of Minister of Justice 878
Order in Council 879
Proclamation disallowing Act 880
GRAND Junction Railway Company, Act respecting granting aid to (Ontario, 1870-71) 74
GRAND Juries, Act respecting (Ontario, 1879) 157-158
GRAND Jurors, Act respecting (Manitoba, 1875) 621
GRAND and Petit Juries, Act respecting (Manitoba, 1879) 658
GRAND Orange Lodge, Provincial of Prince Edward Island, Act to incorporate (Prince Edward Island, 1878) 907-909
GUELPH Board of Trade, Act to incorporate (Ontario, 1867-68) 40

H

HALF-Breed Land Grant Protection Act (Manitoba, 1873) 589,591,593
Report of Lieutenant-Governor 589
Report of Minister of Justice 591
Proclamation giving assent to Act 593

PAGE.

HALF-Breed Land Grant Protection Act, Act to amend (Manitoba, 1875) 628,630
Report of Minister of Justice 628
Proclamation disallowing Act 630
HALF-Breed Land Grant Protection Act, Act to amend (Manitoba, 1877). 651,652
Report of Minister of Justice 651
Order in Council 652
HALIBURTON, Provisional County of, Act respecting (Ontario, 1874) 107-113
HALIFAX Industrial School, Act *re* sentencing Juvenile Offenders to (Nova Scotia, 1868) 337,338
Report of Minister of Justice 337
Proclamation disallowing the Act 338
HALIFAX Company (Limited), Act to incorporate (Nova Scotia, 1874).. 349,350
Report of Minister of Justice 349
Proclamation disallowing the Act 350
HARBORS 107,127
Port Whitby Harbor 107-113
Kingston Harbor 127-134
HARBORS, Act in addition to and in amendment of Revised Statutes, (*re* New Brunswick, 1869) 448
HOMESTEAD of Families, Act to exempt from levy or sale under execution (New Brunswick, 1867-68) 433
HOME Fire Insurance Company, Act to incorporate (Ontario, 1875-76)... 139
HULL, City of, Act to incorporate (Quebec, 1874-75) 250
HUDON Cotton Mill Company, Act *re* issue of Debentures (Quebec, 1875). 278

I

ILLICIT Selling, Act *re* Laws against (Ontario, 1881) 197
INCORPORATION of Emigration Aid Societies, Act *re* (Ontario, 1873) 78
INCORPORATED Associations, Act *re* investing and lending moneys (Manitoba, 1877) 545
INDUSTRIAL and Reformatory Schools, Act to establish (N.B., 1875) 516, 519, 520
INJURIES to Property, Act respecting Malicious (Quebec, 1883) 321
INSANE Persons, Act respecting custody of (Ontario, 1873) 78
INSOLVENT Debtors, Legislation respecting 337, 341, 427, 875, 877
INSOLVENT Debtors, Act to amend Chapter 137 Revised Statutes, Nova Scotia, as to (Nova Scotia, 1868) 337
INSOLVENT Debtors, Act to improve Administration of Justice (N.S., 1870 341
INSOLVENT Debtors, relief of, Act to amend chapters 137 Revised Statutes, Nova Scotia (Nova Scotia, 1884) 427
INSOLVENT Debtors' Act, Act to amend (Prince Edward Island, 1876)... 875
INSOLVENT Debtors Act enabling Stipendiary Magistrate, Charlottetown, to grant relief to (Prince Edward Island, 1876) 877
INSURANCE Companies, Act respecting (Ontario, 1875-76) 137, 140
INSURANCE Policies (Fire), Act respecting conditions in (Ontario, 1875-76) 137
INSURANCE Company, British Columbia, Act to incorporate (B.C., 1877). 776, 781, 782
INSURANCE Company, Act to incorporate Merchants' Marine (P.E.I., 1875) 850
INTOXICATING Liquors, Enactment of Laws by Provinces respecting..81, 82, 367, 375,-608, 626, 647, 656
INTOXICATING Liquors at Camp Meetings, Act to prevent sale of (Nova Scotia, 1874) 375
INTOXICATING Liquors, Acts *re* Acts respecting (Nova Scotia, 1877) 367
INTOXICATING Liquors, Act to amend Act of 1873, to regulate sale and traffic of (Manitoba, 1873-74) 608, 626

PAGE

INTOXICATING Liquors, Act to amend Act of 1874, to regulate sale and traffic of (Manitoba, 1877) 647
INTOXICATING Liquors, Act to amend Act of 1873, to regulate sale and traffic of (Manitoba, 1878) 656
INTESTATES, Acts respecting Administration of Estates of (Ontario, 1877) 142
INTESTATES, Estates of, Acts relating to and Escheats, and Forfeitures (Manitoba, 1884) 693, 694
INTESTATES, Estates of, Acts respecting administration of by crown (Prince Edward Island, 1881) 915
INTESTATES, Estates of, Legislation affecting, and see also "*Escheats*" . 142, 693, 694, 915

J

JACQUET River, Boom across, Act to authorize erection of (N. B., 1875) .. 518
JOINT Stock Companies' General Clauses Act (Quebec, 1868) 223, 230, 232
JOINT Stock Companies, Act respecting Incorporation of (Quebec, 1868) 224, 230, 232
JOLIETTE, Corporation of, Act respecting (Quebec, 1884) 326
JUDGES, Court of Error and Appeal, Act respecting (Ontario, 1874) 83
JUDGES, County Court, Act respecting (Ontario, 1875-77) 137
JUDICIAL Districts (Ontario), Temporary and Judicial, Act respecting (Ontario, 1877) 144
JUDICIAL District Act, 1879 (British Columbia, 1879) 810
JUDICIAL District Act, 1879, Act to carry out provisions of (B.C., 1880) ... 815
JUDICATURE Act (Ontario, 1881) 195
JURIES, Grand, Act respecting (Ontario, 1879) 157, 158
JURORS and Juries, Act respecting (Manitoba, 1876) 637, 658
JUSTICE, Administration of in N. and W. parts of Ontario (Ont., 1879) 162, 169-171
JUSTICE, Administration of, Legislation respecting, *See* "Administration of Justice."
JUSTICES of the Peace, Act relating to Appointment of (N.B., 1869) 437
Report of Minister of Justice 437
Proclamation giving Assent to Act 437
JUSTICES of the Peace, Act respecting Qualification of (Manitoba, 1875) .. 621
JUSTICE of the Peace, Act to authorize one, to do acts, &c., done by two, *re* and appeal (British Columbia, 1872-73) 727

K

KINGSTON, Corporation of, Act to enable, to close Union St. and Water Slip (Ontario, 1875) 127, 184

L

LACHINE, Corporation of, Town of, Act to incorporate and Act to amend (Quebec, 1872) 245, 250
LAND Surveyors, Act respecting (Manitoba, 1872) 583, 585
LAND Surveyors, Act respecting (Manitoba, 1882) 673, 675
LAND Surveyors, and *re* Survey of Land (Manitoba, 1875) 616-617
LAND Grant Protection Act, Half-Breed (Manitoba, 1873) 589, 591, 593
LAND Grant Protection Act, Half-Breed, Act to amend (Manitoba, 1875) 628, 630

PAGE.

LAVAL University, Act respecting (Quebec, 1881) 306-314
Petition of Montreal School of Medicine 306
Report of Minister of Justice 312
Memo. of the Minister of Justice 313
Order in Council 314
LAW Officers of Crown, Opinion of on Chapters 3 and 22 of Ontario, 1868-69 50
LAW, Study and Practice of, Act respecting (Manitoba, 1877) 645
LAW Society of Manitoba, Act to constitute and incorporate (Man., 1874) 583, 585
LEGAL Profession, Act to consolidate Laws relating to (B. Columbia, 1877 780
LEGISLATIVE Assembly, Act respecting powers, &c., of (Ontario, 1868-69) 48, 62, 63
Reports of Minister of Justice 48, 62
Order in Council 62
Proclamation disallowing the Act 63
LEGISLATIVE Assembly (Ontario), Election of Members, Act respecting (Ontario, 1873) 78
LEGISLATIVE Assembly (Ontario), Act respecting (1875 76) 36
LEGISLATIVE Assembly (Quebec), Act respecting Election of Members (Quebec, 1874 75) 249
LEGISLATIVE Assembly (Manitoba), Act to deprive privileges of, etc., (Manitoba, 1873) 596, 597, 599, 60
Report of Minister of Justice 596
Proclamation disallowing Act 597
Correspondence 599-601
LEGISLATIVE Assembly (Manitoba), Act respecting Election of Members to (Manitoba, 1875) 624
LEGISLATIVE Assembly (British Columbia), Act to define Privileges, &c. (British Columbia, 1872) 696, 714, 717
LEGISLATIVE Assembly (Prince Edward Island), Act relating to Controverted Election of Members (Prince Edward Island, 1874) 844
LEGISLATIVE Council and Assembly (Quebec), Act respecting Powers, Privileges, &c. (Quebec, 1869) 236-240
Reports of Minister of Justice 236, 238
Orders in Council 237, 239
Correspondence 237, 238, 240
Proclamation disallowing Act 239
LEGISLATIVE Council (Manitoba), Legislation respecting Abolition of 631, 636
LEGISLATURE, Houses of (Quebec), Act respecting authority and independence of Members (Quebec, 1869-70) 242
LEGISLATURE of Nova Scotia, Act respecting (Nova Scotia, 1876) 375, 377, 378
LAND Ordinance, 1870, Act to amend (British Columbia, 1872 and 1872-73) 705, 715, 716, 718, 728, 729
LAND Purchase Act, 1874 (Prince Edward Island, 1874) 838-841
Report of Minister of Justice 838
Order in Council 841
LAND Purchase Act, 1875 (Prince Edward Island, 1875) 846-848
Report of Minister of Justice 846
Proclamation assenting to Act 847
Correspondence 847, 848
LAND Purchase Act, 1875, Act amending (Prince Edward Island, 1876) 853-856, 861-872
Correspondence 853, 861, 862
Report of Attorney-General Brecken 854
Petition of Mr. E. J. Hodgson to Governor General 862
Petition of Owners of Land, in Prince Edward Island, to Governor General 867
Report of Minister of Justice 869
Order in Council withholding Assent 872

PAGE.

LAND Purchase Act, 1875, Act to facilitate purchase of Estates under (Prince Edward Island, 1876) 860, 861
Report of Minister of Justice 860
Order in Council 861
LEPREAUX Red Granite and Freestone Co, Act to incorporate (New Brunswick, 1876) 520
LICENSES, Crown Timber, Act respecting (Ontario, 1870-71) 74
LICENSES, Liquor, Power to limit (Ontario, 1871-72) 76
LICENSE Duties, Act respecting (Ontario, 1884) 215-217
Report of Minister of Justice 215
Order in Council 216
Proclamation disallowing Act 217
LICENSES, Act to consolidate and amend Law respecting (Quebec, 1870). 243
LICENSE Act (Quebec), Acts to amend and to further amend (Quebec, 1875, 1878, and 1882) 275, 290, 319
LICENSE, Act to compel Assurers to take out 279-284
Petition of Insurance Agents and Companies 279, 280
Report of Minister of Justice 281
LICENSES for Sale of Intoxicating Liquors, Act to amend Act respecting (Nova Scotia, 1874) 367
LICENSES for Sale of Intoxicating Liquors, Act to alter and amend Act respecting (Nova Scotia, 1876) 375
LICENSES, Duties on, under Liquor License Act, 1883, Act to impose (Nova Scotia, 1884) 427
LICENSES for Spirituous Liquors, Act respecting granting of (N. B., 1884) 570
LICENSES for Spirituous Liquors, Act respecting granting of (Man., 1877) 647, 656
LICENSE Ordinance, 1867, Act to amend and Act to further amend 764, 766
LICENSES for Sale of Spirituous Liquors, Act to regulate (Prince Edward Island, 1876) 876
LIEUTENANT-Governors, Powers of, to appoint Queen's Counsel 26-33
LIEUTENANT-Governor (Ontario), Corespondence respecting Appointment of Queen's Counsel 30, 31, 33
LIFE Assurance Co., Act to incorporate Industrial and Commercial (Ontario, 1875) 127, 134
LIQUORS, Spirituous, Act to consolidate and amend Laws respecting (Ontario, 1874 and 1875-76) 84, 138
LIQUOR License Laws, Act to improve (Ontario, 1884) 218
LIQUOR Licenses, Acts relating to withholding of (New Brunswick, 1876) 521-523
Correspondence 521, 523
Report of Mr. Attorney General King 521
Report of Minister of Justice 522
LIQUORS, Spirituous, Act to regulate sale in Lancaster Parish (New Brunswick, 1877) 527
LIQUORS, Intoxicating, Act to amend Act of 1873, to regulate sale, &c. (Manitoba, 1873-74) 608, 626, 647
LIQUOR Licenses, Act respecting (Manitoba, 1884) 692
LIQUOR Licenses, Act respecting Revocation and Cancellation of (Manitoba, 1884) 692
LISCOMB River Driving Co., Act to incorporate (Nova Scotia, 1875) 370
LOCK-UP, Act for establishment of, and appointment Police Magistrates in Shediac (New Brunswick, 1883) 568, 570
LONDON, Huron and Bruce Railway Co., Act respecting (Ontario 1875-76). 138
LOUISBOURG Extension Railway Co., Act to incorporate (Nova Scotia, 1875) 368

M

PAGE.

MAGISTRATES and Coroners in Manitoba, Act authorizing Appointment (Manitoba, 1871) 578
MAITLAND Marine Insurance Company, Act to incorporate (N.S., 1875) .. 369, 373
MANITOBA Investment Association, Act to incorporate (Manitoba, 1877) 640, 641, 643
Despatch from Lieut.-Governor, Manitoba 640
Report of Minister of Justice 641
Order in Council 643
MANITOBA Tramway Company, Act to incorporate 661, 663, 666, 668
Report of Minister of Railways and Canals 661
Orders-in-Council 663, 667
Report of Minister of Justice 666
Proclamation disallowing Act 668
MANITOBA Central Railway Company, Act to incorporate (Man., 1872) ... 582, 585
MARINE Insurrance Company, Canada, Act to incorporate (Quebec, 1868) 234
MARINE Insurance Companies, Incorporation of (Nova Scotia, 1875) 368-374
MARRIAGES, Solemnization of (Nova Scotia, 1868) 336
MARRIAGE Licenses, Act respecting (New Brunswick, 1869) 443-447
Reports of Minister of Justice 443, 447
Order in Council 445
Correspondence, Despatches, &c 445, 446
Proclamation giving assent to Act 447
MEDUXNAKIK Stream Driving Company, Act to incorporate (N.B., 1875) 519
MEDUXNAKIK Boom Company, Act to continue and amend Act to incorporate (New Brunswick, 1874) 510-515
Correspondence, Despatches, &c 510-414
Report of Mr. Attorney-General King 512
Report of Minister of Justice 514
Proclamation giving Assent to Act 515
METHODIST Church of Canada, Act respecting (Ontario, 1875) 127
MILITARY and Naval Settlers' Act, 1863, Act to amend (B.C., 1872) 706, 707, 711, 712
Reports of Attorney-General McCreight 706, 707
Report of Minister of Justice 711
Order-in-Council 712
MINERAL Ordinance, 1869, Act to amend (British Columbia, 1872-73) 728, 729
MINERALS, other than Coal, Act relating to (British Columbia, 1877) 772
MINERALS, other than Coal, Act to amend (British Columbia, 1881) 815
MINERALS, other than Coal, Act to consolidate and amend Laws respecting (British Columbia, 1882) 817, 818
MINERALS, other than Coal, Act to consolidate and amend Laws respecting (British Columbia, 1884) 834
MINING Ordinance, Gold, 1867, and Gold Mining Amendment Act (British Columbia, 1872-73) 728, 729
MINISTERIAL Responsibility, respecting disallowance of Provincial Acts:
Reports of Minister of Justice 15-19, 20-22, 24
Correspondence with Colonial Secretary 10-14, 19, 22-25
MINORS and Apprentices, Act respecting (Ontario, 1875) 129, 134
MONCTON, Town of, Act to incorporate (New Brunswick, 1875) 517
MONCTON, Town of, Act in amendment of, and in addition to Act respecting (New Brunswick, 1883) 565, 569, 570
MONTREAL, Portland and Boston Railway, Act to amend Act incorporating (Quebec, 1875) 276
MONTREAL Permanent Building Society, Act to change name and extend Powers (Quebec, 1875) 278
MUNICIPAL ELECTIONS, Act to provide for voting by Ballot at (Ont. 1875) 129, 134

PAGE.

MUNICIPAL Elections, (Manitoba), Act to make better provision for Order, at (Manitoba, 1876) 637
MUNICIPAL Institutions in Unorganized Districts, Act to organize (Ont., 1873) 78
MUNICIPAL Institutions, Act to consolidate Acts respecting (Ont., 1882-83) 212
MUNICIPAL Act, Act to amend (Ontario, 1882) 203
MUNICIPAL Amendment Act (Ontario, 1884) 218
MUNICIPAL Code of Province of Quebec (Quebec, 1870) 243
MUNICIPALITIES in Counties Nicolet, Arthabaska and Drummond, Act respecting limits of (Quebec, 1878) 291
MUNICIPALITIES, Act relating to (New Brunswick, 1877) 527, 532
MUNICIPALITIES (Manitoba) Act respecting (Manitoba, 1873) 598, 626
MUNICIPALITIES, County, Act respecting and to amend and revive Acts respecting (Manitoba, 1875 and 1884) 628, 691
MUNICIPALITIES, Act respecting (British Columbia, 1872) 705, 715, 716
MUSQUASH River Stream Driving Company, Act to incorporate (N.B., 1869) 439-442
MUTUAL Fire Insurance Companies, Act to provide for Incorporation of in Manitoba (Manitoba, 1876) 637, 639

MANITOBA LEGISLATION:

1871—Telegraph Lines in Province, Act to authorize construction of 577, 579
Railways, Act to empower Lieutenant-Governor in Council to authorize construction of 577-579
Western Railway of Manitoba, Act to incorporate 580
General Report 578
Red River Bridge Company, an Act to incorporate 580
Magistrates and Coroners, Act authorizing appointment of 578
1872—Manitoba Central Railway Company, Act to incorporate 582, 584
Assiniboine and Red River Navigation Company, Act to incorporate 583, 584
Law Society of Manitoba, Act to constitute and incorporate 583, 585
Land Surveyors, Act respecting 583, 585
Supreme Court in Manitoba, Act to amend Act to establish 586
General Report 586
1873—Tax on Wild Lands, Act to impose 588, 590, 593
Prairie Fires, Act to amend 35 Vic., Chap. 20, for prevention of, &c 588, 590
Aliens, Act respecting 588, 590, 593
Half-breed Land Grant, Protection Act 589, 581, 593
Eastern Railway Company of Manitoba, Act to incorporate 589, 592, 594
General Report 595
Legislative Assembly, Act to define privileges, &c 596, 597, 599, 601
Registration of Deeds, &c., Act to amend Act respecting 597
Enquiries concerning Public Matters, Act to make provision for 597
Municipalities, Act respecting 598
Winnipeg Board of Trade, Act to incorporate 598, 599, 602, 603
1874—City of Winnipeg, Act to incorporate 604, 606
General Reports 604, 607
Court of Queen's Bench in Manitoba, Act respecting 607, 609-614
Co-partnerships, Registration of, Act respecting 608
Co-partnerships, Foreign, &c., Act to compel enregistration 608
Intoxicating Liquors, Act to amend Act of 1873 to regulate sale, &c., of 608

MANITOBA LEGISLATION:—

PAGE.

1875—Land Surveyors and Survey of Lands in Manitoba, Act respecting 615
Proceedings by and against Crown, Act to regulate 617-619
General Reports 620, 624
Administration of Justice, Act respecting 620, 621
Grand Jurors, Act respecting 621
Justices of the Peace, Act respecting Qualifications of 621
Estreats, Penalties and Forfeitures, Act respecting 622, 623
Legislative Assembly, Act respecting Election of Members to 624
Building Societies, Act respecting 625
Education, system of, Act further to amend Act to establish . 626
Intoxicating Liquors, Act to amend Act, 1873, to regulate sale, &c., of 626
Municipalities, Act respecting 626
Municipalities, County, Act respecting 626
Registry Act, Act to amend 627
Bridge over Assiniboine River, Act to afford facilities for construction of 628, 630
Half-breed Land Grant, Protection Act, Act to amend 628, 630
Wood Lands, Act for protection of in Province 629
1876—Expenditure of Province of Manitoba, Act to diminish 631-636
Practice in the Courts, Act respecting 634, 636
General Report 637
Jurors and Juries, Act respecting 637
Fire Commissioners in Cities and Towns, Act to provide for appointment of 637
Municipal Elections, Act to make better provision for securing order at 637
Mutual Fire Insurance Companies in Province, Act to provide for incorporation 637, 639
Public Works of Manitoba, Act respecting 638
Public Roads, Act concerning opening of 638, 639
1877—Manitoba Investment Association, Act to incorporate 640, 641, 643
General Report 643
County Municipalities, Act respecting 643
Education, system of, Act to amend Act to establish 644
Study and Practice of Law, Act respecting 645
Corporations and Institutions incorporated, Act to authorize to lend and invest Moneys 645
Parliamentary Electors for Winnipeg, 1877, Act to legalize Lists of 646
Cemeteries, Companies for establishment of, Act respecting .. 646
Intoxicating Liquors, Sale of, and granting Licenses, Act to amend Acts relating to 647
City of Winnipeg, Act to amend amended Act respecting 647
Correspondence respecting Statutes of 649, 650
Half-breed Land Grant Protection, Act to amend 651, 652
1878—Fund for Educational Purposes, Act to create 652-654
General Report 655
1879—General Report 657
Grand and Petit Jurors and Juries, Act respecting and to amend Jurors' Act 658
1880—Acts not reported upon 659

PAGE.

MANITOBA LEGISLATION:—

1881—Winnipeg South-Eastern Railway, Act to incorporate 660, 661
Manitoba Tramway Company, Act to incorporate.....661, 663, 666-668
Emerson and North-Western Railway, Act to incorporate, 661, 663, 667, 668
General Report..... 668
Report on Chaps. 2, 7, 16, 28 and 33..... 670, 671
Consolidated Statutes, Act respecting..... 670
Railways in Manitoba, Act to encourage building of.....666, 667, 668
1882—Land Surveyors, Act to amend Act respecting..... 673-675
General Report..... 676
City of Brandon, Act to incorporate..... 678
City of Winnipeg, Charter of, consolidated..... 678
1883—General Report..... 679
Emerson and West Lynne, Act uniting Towns of 682, 688
1884—General Report..... 688
Municipalities, Act to amend and revive Acts relating to 691
Liquor Licenses, Act respecting..... 692
Liquor Licenses, Act respecting revocation and cancellation of 692
City of Winnipeg, Act to consolidate and amend Acts of incorporation of..... 692
Escheats and Forfeitures, and Estates of Intestates, Act respecting..... 693, 694

N

NAVIGATION, Acts relating to (New Brunswick, 1867-68)..... 432
NAVIGABLE Waters, Legislation involving question of (New Brunswick, 1873)..... 509
NEW Brunswick Red Granite Company, Act to incorporate (New Brunswick, 1876)..... 520
NEW Glasgow, Act to further amend Act to incorporate (Nova Scotia, 1877)..... 382, 391
NEW Westminster Southern Railway Company, Act to incorporate (British Columbia, 1883)..... 819, 821
Report of Minister of Justice..... 819
Order in Council disallowing..... 821
NIAGARA Falls and Lake Erie Railway, Act to incorporate (Ontario, 1875-76)..... 139
NICOLET, Town of, Act to incorporate (Quebec, 1872)..... 245
NICTAUX and Atlantic Railway, Act to incorporate (Nova Scotia, 1873).. 348
NOTARIAL Profession, Act to consolidate and amend Acts respecting (Quebec, 1875)..... 275
NOTRE Dame Parish, Montreal, Act to civilly erect Parishes cut off from (Quebec, 1875)..... 284
NOVA Scotia Marine Insurance Company, Act to continue Acts respecting (Nova Scotia, 1875)..... 368, 373
NOVA Scotia Railway Act, 1880, Act to amend (Nova Scotia, 1881)..... 403-414
Petition of Windsor and Annapolis Railway..... 404
Correspondence..... 408, 411
Report of Mr. Attorney-General Thompson 408
Reply of Windsor and Annapolis Railway..... 411
Report of Minister of Justice..... 414
Order in Council..... 414

PAGE.

Nova Scotia Railway Act, 1880, Act to amend and Act in amendment of (Nova Scotia, 1882) 418, 419
Nova Scotia Railways, Act for consolidating (Nova Scotia, 1882) 419, 420

NEW BRUNSWICK LEGISLATION:

1867-68—General Reports 431, 432
Albert Railway, Act to extend time for building 432
Homesteads of Families, Act to exempt from levy or sale under execution 433, 434
Central Bank of New Brunswick, Act relating to 434
1869—General Report 436
Justices of the Peace, Act relating to appointment of 437
European and North American Railway, Act to compel Subscribers to Stockto pay up 438
Musquash River Stream Driving Company, Act to incorporate 439, 442
Police Force in St. John, Act in amendment of Act respecting 442
Marriage Licenses, Act respecting 443-447
Harbors, Act in addition to in amendment of the Statute *re*... 448
1870—General Report 449
Parish of St. Stephen, Act to divide, for Ecclesiastical purposes 449
1871—Synod of Church England in Diocese Fredericton, Bill relating to 450, 451
General Report 451
Police Establishment in City Fredericton, Act relating to 451
Spirituous Liquors, Act in addition to Act, to amend, &c 452
Common Schools, Act relating to 452-507
1872—General Report 507
1873—General Report 508
County Courts of New Brunswick, Act further relating to 508
Courts in County of Madawaska, Act to establish certain 508
St. George Red Granite Company, Act to incorporate 508
Report on Chapters 88, 91, 92, 93 and 100 (*re* question of Navigable Waters) 509
Districts of Parish of St. Stephen, Act to incorporate certain, &c. 509
1874—Meduxnakik Boom Company, Act to further continue and amend Act to incorporate 510-515
Acts of. See Memo 515
1875—General Report 516
Reformatory and Industrial Schools 516, 519, 520
Debentures, Provincial, Act to authorize issue 516
Fredericton Boom Company, Act to amend Act, &c., to incorporate 516
Town of Moncton, Act to incorporate 517
Police Force and Lock-up in Caraquet, N. B., Act to provide for Establishment 517
St. Croix Wharf Company, Act to incorporate 517
Shediac Station Wharf Company, Act to incorporate 517
Belliveau Albertite and Oil Company, Act to incorporate 518
Utopia Red Granite Company of St. George, Act to incorporate 518
Boom across Jacquet River, in County Northumberland, Act to authorize erection 518
Eel River Driving Company, Act to incorporate 518
Maduxnikik Stream Driving Company, Act to incorporate 519
1876—General Report 520

PAGE.

NEW BRUNSWICK LEGISLATION:—

1876—Lepreaux Red Granite and Freestone Company, Act to incorporate 520
New Brunswick Red Granite Company, Act to incorporate.... 520
Pollet River Log Driving Company, Act to incorporate..... 520
Liquor Licenses, Acts relating to withholding of..... 521
1877—General Report..... 524, 532
Municipalities, Act relating to..... 524, 532
Spirituous Liquors, Act to regulate sale of in Parish Lancaster, &c..... 527, 532
Collection of small Debts in City Fredericton, Act to facilitate collection of..... 528
Correspondence respecting Acts of..... 530-533
1877—(2nd Session.) General Report..... 534
Side Lines of Streets in City of St. John, Act to define and establish..... 534
1878—St. John and Maine Railway, Act to incorporate..... 535
General Report..... 538
1879—Supreme Court, Act to facilitate transaction of business in.... 542, 543
Act to legalize Assessment of amount due Commissioners of Germantown Lake, &c..... 545
General Report..... 547
Restigouche Boom Company, Act to incorporate..... 548
1880—General Report..... 550
1881—General Report..... 553
Physicians and Surgeons, Act relating to Registration and Qualification of..... 554
St. John Bridge and Railway Extension Company, Act to incorporate..... 555
1882—General Report..... 557
County Courts, Act in amendment of Chap. 51, C. S., N. B., *re* 561
Fredericton and St. Mary's Bridge Company, Act to incorporate 561
Courtenay Bay Bridge Company, Act to continue, revive and amend Act respecting..... 561
1883—General Report..... 565
Town of Moncton, Act in amendment of and in addition to Act respecting..... 565, 568
Shediac, Act for appointment of Police Magistrate and establishing Lock-up in..... 568, 570
1884—General Report..... 570
Licenses for sale of Spirituous Liquors, Act respecting granting 570
Law Stamps, Act respecting..... 571
Government House, Act *re* reduction of expense of maintaining and of Private Secretary of Lieutenant-Governor..... 574

NORTH-WEST TERRITORIES' LEGISLATION:

1881—General Report..... 922
1883—General Report..... 923
Diseases of Domestic Animals, Ordinance respecting Infectious and Contagious..... 924
Municipalities, Ordinance respecting..... 925
1884—General Report..... 930
Municipalities, Ordinance respecting..... 930
Controverted Elections, Ordinance respecting..... 930

PAGE.

NORTH-WEST TERRITORIES' LEGISLATION:

1884—Corporations and Institutions, Act to authorize certain to transact business in North-West Territories..... 931
Preferential Assignments, Ordinance respecting..... 931
Exemption of certain Property from Seizure or Sale under Execution..... 933, 934

NOVA SCOTIA LEGISLATION:

1868—General Report..... 332
Commissioners of Sewers and regulating Dykes and Marsh Lands, Act respecting..... 332
Solemnization of Marriages and Registration of Births, &c.... 336
Relief of Insolvent Debtors, Act to amend Revised Statutes respecting..... 337
Stipendiary Magistrate and Constable for Town of Pictou, Act amending Act respecting appeal..... 337
Report respecting Chapter 37..... 337
Halifax Industrial School, Act respecting sentencing Juvenile Offenders to..... 337, 338
1869—General Report..... 339
Seamen and Shipping, Act to amend Revised Statutes *re*..... 339, 340
Offences against Public Peace..... 339
Preservation of useful Birds and Animals, Act to amend Act *re* 340
1870—Administration of Justice, Act to improve..... 341
General Report..... 342
Conveyance of Timber, &c., on Rivers, and removing obstructions therefrom..... 342
Pilotage, Harbors and Harbor Masters..... 342
Pilotage in Bras d'Or Lakes, Act to regulate..... 343-345
1871—General Report..... 343
Nova Scotia Mutual Fire Insurance Company, Act to incorporate 344
1872—General Report..... 346
1873—General Report..... 347
Whitehaven, New Glasgow and North Shore Railway, Act to incorporate..... 347
Sydney and East Bay Railway Company, Act to incorporate. 347
Nictaux and Atlantic Railway, Act to incorporate..... 348
1874—General Report..... 348
Halifax Company (Limited), Act to incorporate..... 349, 350
Anglo-French Steamship Company, Act to incorporate..... 351
County Courts, Act to establish..... 352, 365
Eastern Counties' Railway Company, Act to incorporate..... 351
Report on Chapters 63, 68 and 69..... 352
Railway Companies and their Creditors, Act to facilitate arrangements between..... 354
Eastern Steamship Company, Act to incorporate..... 364
Act respecting Licenses for Sale of Intoxicating Liquors..... 367
Sale of Intoxicating Liquors at Camp Meetings..... 367
1875—General Report..... 367
Election Petitions, and Prevention Corrupt Practices at Elections, Act respecting..... 367
Wharf, Pier and Breakwater Companies, Act to continue Acts of Incorporation of..... 368
Louisbourg Extension Railway Company, Act to incorporate. 368

NOVA SCOTIA LEGISLATION:

PAGE.

1875—Protheroe Coal and Railway Company, Act to incorporate.... 368
Globe Marine Insurance Company, Act to incorporate..... 368, 373
Nova Scotia Marine Insurance Company, Act to continue Acts respecting..... 368, 373
Maitland Marine Insurance Company, Act to incorporate..... 369, 373
Union Marine Insurance Company of Nova Scotia, Acts relating to..... 369, 373
Colchester Lumber Driving and Manufacturing Company, Act to incorporate..... 370
St. Margaret's Bay Lumber and Timber Driving Company, Act to incorporate..... 370
Cumberland Driving Company, Act to incorporate..... 370
Liscomb River Driving Company, Act to incorporate..... 370
1876—General Report..... 375
Licenses for sale of Intoxicating Liquors, Act to alter and amend Act respecting..... 375
Legislature of Nova Scotia, Act respecting..... 375, 377, 378
Chezzetcook Dyke, Act respecting Lower..... 376
Town of Dartmouth, Act for supplying with Water..... 376
Nova Scotia Fishing Company, Act to incorporate..... 376
1877—General Report..... 380
Preservation of useful Birds and Animals, Act to amend Laws respecting..... 381, 385-389
Town of New Glasgow, Act to further amend Act to incorporate..... 382, 389, 391
Truro Marine Insurance Company, Act to incorporate..... 384
Bedford Grain Importation, Milling and Manufacturing Company, Act to incorporate..... 389, 390
1878—General Report..... 391
Nova Scotia Branch of Independent Order Odd Fellows, Act to incorporate..... 392
1879—General Report..... 393
Estreats, Act respecting..... 397, 398
1880—General Report..... 399
1881—General Report..... 400
Crown Lands and Crown Land Surveyors, Act in reference to 401
Nova Scotia Railway Act, 1880, Act to amend..... 403-414
1882—General Report..... 415
Nova Scotia Railway Act, 1880, Act to amend and Act in amendment..... 418, 419
Nova Scotia Railways, Act for Consolidation of..... 419, 420
1883—Eastern Extension Railway, Act respecting..... 420
Provincial Loan, Act to authorize raising, &c..... 420
Spring Hill and Parrsboro' Railway Company, Acts respecting 421-423
General Report..... 422
1884—Provincial Loan, Act respecting..... 426
General Report..... 427
Duties on Licenses (under Liquor License Act, 1883) Act to impose..... 427
Insolvent Debtors, Relief of, Act to amend Act respecting..... 427
Administration of Justice, Act to improve..... 427
General Report..... 427

O

	PAGE.
OFFENCES against Public Peace, Act respecting	339
ORANGE Lodge, Grand Provincial of Prince Edward Island, Act to incorporate	907-909
OTTAWA Iron and Steel Manufacturing Company, Act to incorporate	247
ONTARIO LEGISLATION	
1868—General Reports	34,39
Report on Chapters 6, 19, 20, 29, and 30	37
Report on Chapters 17, 28, 64, 5	40
Correspondence with Provincial Authorities	38, 42
1868-69—General Reports	43, 45, 61
Reports of Minister of Justice on Chapters 1, 3 and 22	48, 60
Correspondence with Colonial Secretary, respecting Acts of	50, 51
Law Officers' opinion on Chapters 3 and 22	
Report of Provincial Attorney-General on Chapters 3 and 22	54
Proclamation disallowing Chapter 3	63
Report on Chapter 1, the Supply Bill	64
1869—General Report	66
1870-71 Petition of Mr. Becher respecting Chapter 49	69
General Report	73
Report on Chapters 4, 17, 19, 48, 75, 99	74
Thunder Bay District, certain Clauses *ultra vires*, Report	74
Central Prison, Act respecting	74
Grand Junction Railway Company, Act respecting	74
Goodhue's Will, Act as to Petition respecting and Report on	69, 75
Simpson Loom Company	75
Road Allowances, Government, Act respecting	75
Crown Timber Licenses	75
1871-72—General Report	76
Petition of Right Act, Report on	76
Municipal Elections, Corrupt Practices at	76
Liquor Licenses, power to Limit	76
1873—General Report	77
Report on Chapters 2, 31, 35 and 50	78
Election of Members to Legislative Assembly and trial of Elections	78
Provisions respecting Custody of Insane Persons	78
Incorporation of Emigration Aid Societies in Ontario	78
Establishing Municipal Institutions in Unorganized Districts	78
Orange Bills	79, 80
1874—Ballot Act	82
Act to make further provision for Administration of Justice	83
Public School Law, Act to amend and consolidate	82
Spirituous Liquors, Act to amend and consolidate the Law	84
Report of Mr. Attorney-General Mowat respecting Chapters 5, 7, 28 and 32	85
Escheats and Forfeitures, Act to amend Law respecting	88,101-107
General Report	101
Whitby and Port Perry Railway Company, Act to amend Act incorporating	107-113
1875—Union of Presbyterian Churches, Act respecting	113-127
Methodist Church of Canada, Act respecting	127
Kingston City Harbor, Act to enable Corporation of, to close Union St., &c	127,134

PAGE.

ONTARIO LEGISLATION:

1875—Industrial and Commercial Life Assurance Company, Act to incorporate 127,134
Alliance Insurance Company, Act to incorporate 127,134
Act respecting operation of Statutes of Ontario..... 129,134
Act to amend Division Court Act..... 129,134
Apprentices and Minors, Act respecting..... 129,134
Voting by Ballot at Municipal Elections, Act to provide for... 129,134
General Report..... 130
1875-76—General Report..... 135
Administrative Matters, Act respecting certain..... 135
Legislative Assembly, Act respecting 136
County Court Judges, Act respecting..... 137
Insurance Companies, Act respecting..... 137,140
Policies in Fire Insurance, Act respecting uniform conditions in..... 137
London, Huron and Bruce Railway, Act to amend Acts *re*..... 138
Niagara Falls and Lake Erie Railway, Act to incorporate.... 139
Home Fire Insurance Company, Act to incorporate... 139
Union Fire Insurance Company, Act to incorporate..... 140
Report on Chapters 94, 95 and 96..... 140
1877—General Report..... 141
Estates of Intestates, Act respecting administration of Estates of..... 142
Act to encourage Arts, Manufactures, &c..... 144
Territorial and Temporary Judicial Districts, and provisional County of Haliburton, Acts respecting..... 144
Standard Fire Insurance Company, Act to incorporate..... 148
Report of Attorney-General Mowat on Chapters 4, 17, 24 & 66. 151
1878—General Report..... 152
1879—City of Toronto, Consolidated Debenture Act..... 153-157
Grand Juries, Act respecting..... 157,158
General Report..... 158-161
Administration of Justice in Northerly and Westerly parts of Ontario..... 162,169
Report on Chapter 50, respecting Dams on Beaver Creek, &c. 169
1880—General Report..... 173
Act to abolish priority of and amongst Execution Creditors... 176
1881—Rivers and Streams Bill 178-195
General Report..... 195
Act to consolidate Superior Courts, establish uniform system Pleading, &c..... 195
Illicit Selling, Act to give increased efficiency to Laws against 197
Road Allowance between Township of Kingston and Village of Portsmouth, Act respecting..... 198
Toronto Gravel Road and Concrete Company, Act to amend Acts incorporating..... 200
1882—Rivers and Streams Bill 201,202
Act respecting defects in Law of Evidence. 203
Restitution of Stolen Goods..... 203
Municipal Act, Act to amend..... 203
General Report..... 204
St. Paul's Church in Town of Woodstock, Act respecting..... 207
1882-1883—Rivers and Streams Bill..... 210,211
General Report..... 211
Municipal Institutions, Act to Consolidate Acts respecting.... 212

PAGE.

ONTARIO LEGISLATION:

1884—License Duties, Act respecting 215-217
Factories' Act..... 217,218
Municipal Amendment Act..... 218
Liquor License Laws, Act to improve..... 218
General Report..... 218

P

PARISH of St. Stephen, Act to divide for Ecclesiastical purposes (New Brunswick, 1870)..... 449
PARISHES cut off from Notre Dame, Montreal, Act to civilly erect (Quebec, 1875) 284
PARLIAMENTARY Papers, protection of persons publishing (Quebec, 1869-70) 236-240, 242
PARLIAMENTARY Electors' Lists (Winnipeg, 1871) Act to legalize (Manitoba, 1877)..... 646
PASTURAGE, Act to prevent destruction of, on Island, Gulf of Georgia (British Columbia, 1877)..... 769
PATRIOTIC Insurance Company, Act to incorporate (Quebec, 1875).....277, 286-288
Reports of Minister of Justice.....277, 286, 287
Orders in Council.....279, 286, 288
Correspondence..... 287
PETITIONS of Right Act (Ontario, 1871-72)..... 76
PHYSICIANS and Surgeons, Act relating to Qualification and Registration of (New Brunswick, 1881)..... 554
PILOTAGE, Harbors and Harbor Masters (Nova Scotia, 1870)..... 342
PILOTAGE in Bras D'or Lakes, Act to regulate..... 343-345
Reports of Minister of Justice..... 343, 344
Order in Council 345
Proclamation disallowing the Act..... 345
POLICE Establishment in Fredericton (New Brunswick, 1871)..... 451
POLICE Force and Lock-up in Caraquet, Act to establish, &c. (N.B., 1875) 517
POLICE Force in St. John (New Brunswick) Act in amendment of Act respecting (New Brunswick, 1869)..... 442
POLICE Magistrate and Lock-up, Act for appointment of, &c. (N.B., 1883) 568, 570
POLICIES in Fire Insurance, conditions in, Act respecting (Ont., 1875-76) 137
POLLIT River Log Driving Company, Act to incorporate (N.B., 1876)... 520
PORT Whitby Harbor (Ontario, 1874)..... 107-113
POWERS, Privileges, &c., of Legislative Assembly. See "*Legislative Assembly.*"
POWERS of Attorney, Act to make valid in certain cases (B.C., 1875)...748, 750, 751
Reports of Minister of Justice..... 748, 750
Orders in Council..... 748, 751
POWER of Attorney Act, 1875, Act to amend (British Columbia, 1876).... 765
PRACTICE and Procedure in Supreme Court (British Columbia), Act respecting (British Columbia, 1879)..... 809, 810
PRAIRIE Fires, Act to amend Act for prevention of (Manitoba, 1873)..... 588, 590
Report of Lieutenant-Governor..... 588
Report of Minister of Justice..... 590
PREFERENTIAL Assignments, Ordinance respecting (N.W.T., 1884)..... 931
PRESBYTERIAN Churches, Act respecting Union of (Ontario, 1875)..... 113-126
PRESERVATION of Useful Birds, Act respecting (Nova Scotia, 1877).....381, 385-389
PRIVATE Secretary of Lieutenant-Governor (New Brunswick) Act relating to Salary of (New Brunswick, 1884)..... 574

PAGE.

PROTHEROE Coal and Railway Company, Act to incorporate (N.S., 1875). 368
PROPERTY, Act respecting Malicious Injuries to (Quebec, 1883) 321
PROPERTY, Taxes in British Columbia, Act to assess, levy and collect (British Columbia, 1876) 763, 766
PROVINCIAL Permament Building Society, Act to change name and extend powers (Quebec, 1875) 277
PROVINCIAL Loan (Nova Scotia), Act to authorize raising, &c. (N.S., 1883) 420, 426
PROVINCIAL Grand Orange Lodge of Prince Edward Island, Act to incorporate (British Columbia, 1872) 707-709
PUBLIC School Acts, Act to amend and consolidate (B.C., 1876) 762
PUBLIC School Act, 1879 (British Columbia, 1879) 808
PUBLIC Schools Act, 1877 (Prince Edward Island, 1877) 880-898
Correspondence, Despatches, &c 880-882, 884-866, 897, 898
Memorials of Bishop of Charlottetown 882, 887
Petition of Rev. Daniel J. Ellis and others 888
Report of Minister of Justice 889
Order in Council 897
PUBLIC Peace, Offences against, Act respecting (Nova Scotia, 1869) 339
PUBLIC Matters, Enquiries Concerning, Act to make provision for (Manitoba, 1873) 597
PUBLIC Matters, Enquiries Concerning, Act to make Provision in (British Columbia, 1872) 700, 715-717
PUBLIC Roads (Manitoba), Act concerning opening of (Manitobo, 1876). 638, 639
PUBLIC Works (Manitoba), Act concerning (Manitoba, 1876) 638
PUBLIC Service, Departments of, Act relating to (P.E.I., 1876) 853, 856
PURCHASE of Estates under Land Purchase Act, 1875, Act to facilitate (Prince Edward Island, 1876) 860, 861

PRINCE EDWARD ISLAND LEGISLATION:

1874—Government House Farm, Act to vest part of in City Charlottetown 836-838
Land Purchase Act, 1874 838-841
General Report 842
County Courts of Judicature, Act to establish in Prince Edward Island 843
Examination of Witnesses, &c., Act to consolidate and amend Laws enabling Supreme Court of Prince Edward Island to order 843
Prince Edward Island Chamber of Commerce, Act to incorporate 843
Controverted Elections of Members to serve in Legislative Assembly 844
1875—General Report 848
Stipendiary Magistrate for City Charlottetown, Act to appoint 845
Merchants' Marine Insurance Company, Act to incorporate and Act to amend Act 850, 857
Land Purchase Act, 1875 846-848
1876—Land Purchase Act, 1875, Act amending 853-856, 861, 862-872
General Assembly, Act further securing independence of 858, 859
Purchase of Estates of Proprietors, under Land Purchase Act, 1875, Act to facilitate 860, 861
Public Service, Department of, Act relating to 853, 856
Government House Farm, Act to vest part of, in City Charlottetown 878-880
General Report 875
Spirituous Liquors, Act to regulate sale of by License 875

PAGE.

PRINCE EDWARD ISLAND LEGISLATION:

Insolvent Debtors' Act, Act to amend 875
Insolvent Debtors, Act to enable Stipendiary Magistrate of City Charlottetown 877
Coroners' Inquests, Act respecting 877
Town of Summerside, Act respecting 877
Victoria Boring and Mining Co., Act for incorporation of 877
Acadia Provident Association, Act to incorporate 877
1877—Public Schools Act, 1877 880-898
General Report 898
Town Charlottetown, Act to amend Act to incorporate 900
St. James' Church, Charlottetown, Act to alter and amend Act to incorporate Ministers and Trustees of 900
Registration of Electors and Ballot Act of Prince Edward Island
1878—Church of England in Prince Edward Island, Act to repeal certain Acts relating to 901-905
General Report 905
County Courts Amendment Act (1878) 905
Provincial Grand Orange Lodge of Prince Edward Island, &c., Act to incorporate 907-909
1879—General Report 910
1880—General Report 911
1881—General Report 913
Estates of Intestates, Act respecting administration of by Crown 915
1882—General Report 916
1883—General Report 918
1884—General Report 920

Q

QUALIFICATIONS of Justices of the Peace, Act respecting (Manitoba, 1875) 621
QUALIFICATIONS of Voters, Act to make better provision for (B.C., 1876). 763
QUALIFICATION, Registration of Voters' Amendment Act, 1878 (B.C. 1878) 786, 787, 796, 798
Correspondence, &c 786
Petition from Government Officials at Victoria, B.C., to Governor General 787
Report of Minister of Justice 796
Order in Council 798
QUEEN'S Bench (Manitoba), Act respecting (Manitoba, 1873-74) 607, 609-614
Report of Minister of Justice 607
Correspondence 609
Minutes of Executive Council (Manitoba) 609
Report of Chief Justice Wood 611
QUEEN'S Counsel:
Appointment of by Lieutenant-Governors, of Provinces 26-33
Reports of Minister of Justice, *re* power of Appointment of 26, 28
Order in Council 29, 31
Correspondence with Colonial Secretary, *re* power to appoint 26, 27
Correspondence with Lieutenant-Governor (Ontario), *re* power to appoint 30, 31, 32
Opinion of Law Officers of the Crown, *re* power to appoint 27

PAGE.

QUEBEC LEGISLATION

1868—General Report 222
Act to continue certain Acts, &c. (respecting Bankruptcy) 223
Joint Stock Companies, General Clauses Act 223
Joint Stock Companies, Act respecting Incorporation of 224
Recorders' Court of Montreal, Act on subject of 224
St. Louis Hydraulic Co., Act to incorporate 224-229
Memo of Provincial Secretary, Quebec, on Chapters 14, 24, 25 and 37 230
Chambly Hydraulic & Manufacturing Co., Act to incorporate 234
Canada Marine Insurance Co. Act to incorporate 234
1869—General Report 235
Legislative Council and Assembly, Act respecting powers, privileges, &c 236-240
1869-70—Superior Court, Act respecting constitution of (Que., 1869-70) 241,242
General Report 241
Houses of Legislature, Act respecting Authority, &c., of, and Independence of Members 242
1870—General Report 243
Licenses, Act to consolidate and amend Law respecting 243
The Municipal Code of Province of Quebec 243
1871—General Report 244
1872—General Report 245
Town of Nicolet, Act to incorporate 245
Town of Lachine, Corporation of, Act to incorporate 245
Village of Terrebonne, Act to incorporate as a Town 245
Queen's Counsel, Act respecting appointment of 246
Registers of Civil Status, Act respecting 246
1873-74—General Report 247
Ottawa Iron and Steel Manufacturing Co., Act to incorporate. 247
1874-75—General Report 248
Manufacture of Sugar from Beet Root, Act to encourage 248
Election of Members to Legislative Assembly, Act respecting. 249
St. Lawrence Bridge Company, Act to incorporate 249, 254
City of Three Rivers, Act to amend Act of incorporation 250
Town of Lachine, Act to amend Act of incorporation 250
City of Hull, Act to incorporate 250, 273
Atlantic Insurance Co., Act to incorporate 251, 273
Sherbrooke Gas Company, Act to incorporate 251
Registration Division of Montreal, Act to divide into three Registration Districts 255
Report on Chapters 28 and 29 270
1875—General Report 274
Quebec, Montreal and Occidental Railway, Act respecting construction 274
Quebec License Act, Act to further amend 275
Compilation of Statistics, Births, &c., Act respecting. 275
Notarial Profession, Act to consolidate and amend Acts respecting 275
Bagotville, Village of, Act to erect into separate Municipality 276
Montreal, Portland and Boston Railway, Act to amend Act incorporating 276
Patriotic Insurance Company, Act to incorporate 277, 286-288
Provincial Permanent Building Society, Act to change Name and extend Powers 278

PAGE.

QUEBEC LEGISLATION :

1875—Montreal Permanent Building Society, Act to change Name and extend Powers 278
Le Crédit-Foncier du Bas Canada, Act respecting 278
V. Hudon Cotton Mill Company, Act respecting issue of Debentures by 278
Musical Band of Village of Lauzon, Act to incorporate 278
Act to compel Assurers to take out License 279-284
Act for civil erection of Parishes out off from Parish Notre Dame, Montreal 284
Act to amend 38 Victoria, Chapter 29 285
1876—General Report 289
1878—General Report 290
Quebec License Act and Amendments, Act to amend and consolidate 290
Act to define and regulate limits of certain Municipalities in County Nicolet and elsewhere 291
1878—General Report 294
1879—General Report 295
Town of St. Henri, Act to consolidate and amend Act incorporating 297
Sherbrooke, City of, Act to amend Act incorporating 297
1880—General Report 301
1881—General Report 302
Laval University, Act respecting, &c 306 314
Canadian Electric Light Co., Act to incorporate 312
Quebec and Levis Telephone Company, Act to incorporate 312
1882—General Report 315
St. Francis Bridge Company, Act to extend powers and privileges of 318
Quebec License Law of 1878, Act to amend 319
Commercial Corporations, Act to impose direct Taxes on 319
Municipal Code of Province Quebec, Act to further amend 319
Town of Richmond, Act to incorporate 319
1883—General Report 320
Superior Court, Constitution of, Act to amend Law respecting 320
Stadacona Fire and Life Insurance Company, Act respecting winding up of 321
Malicious Injuries to Property, Act respecting 321
1884—General Report 325
Toll Bridge, over River Richelieu, Act to authorize Quebec Government to take 325
Corporation of Town of Joliette, Act respecting 326
St. Cunegonde, Town of, Act to incorporate 327

R

Railway Companies and their Creditors, Act to facilitate Arrangements between (N.S., 1874) 354-364
Correspondence and Despatches 354, 361
Petition of Windsor and Annapolis Railway 355
Report of Minister of Justice 357
Proclamation assenting to Act 360

PAGE.

RAILWAYS in Manitoba, Act to encourage building of (Manitoba, 1881)... 666-668
Reports of Minister of Justice 666
Order in Council 667
Proclamation disallowing the Act 668
RAILWAYS in Manitoba, Act to empower Lieutenant-Governor in Council to authorize (Manitoba, 1871) 577-579
RECORDER'S Court, Montreal, Act on subject of (Quebec, 1868) 224, 230, 232
REFORMATORY and Industrial Schools, Act to provide for establishment of (N.B., 1875) 516, 519, 520
REGISTRATION, Births, Deaths and Marriages, Acts respecting 336, 703, 715, 716
REGISTRATION of Deeds, &c., Act to amend Act respecting (Man., 1873)... 597
REGISTRATION District of Montreal, Act to divide, &c., (Quebec, 1874-75). 255-270
Correspondence 255, 256, 266, 269, 270
Petition of Mr. Ryland to Governor General 255, 257
Petitions of Legal Profession 257, 258
Reports of Minister of Justice 258, 268
Orders in Council 266, 269
REGISTRATION of Co-partnerships, Act respecting (Manitoba, 1873-74)..... 608
REGISTRATION of Foreign Co-partnerships and Corporations (Manitoba 1873-74) 608
REGISTRATION of Electors and Ballot Act (P.E.I., 1877) 900
REGISTRY Act, Act to amend (Manitoba, 1875) 627
RESTIGOUCHE Boom Co., Act to incorporate (N.B., 1879) 548
REVISED Statutes of Ontario, Act respecting (Ontario, 1877) 142
RICHELIEU Toll Bridge, Act authorizing Quebec Government to take (Quebec, 1884) 325
RIVERS and Streams' Bill (Ontario, 1881) 178-195
Petitions of Mr. McLaren 178, 183
Report of Minister of Justice 184
Order in Council and Proclamation disallowing Act 186
Report of Mr. Attorney-General Crooks 188
Correspondence 187-195
RIVERS and Streams' Bill (Ontario, 1882) 201-202
Order in Council 201
Proclamation disallowing Act 202
RIVERS and Streams' Bill (Ontario, 1883) 210-211
Report of Minister of Justice 210
Proclamation disallowing the Act 211
ROAD Allowances, Act, respecting (Ontario, 1870-71) 74
ROAD Allowance, between Township of Kingston and Village Portsmouth, Act *re* (Ontario, 1881) 198
ROAD, Toronto Gravel and Concrete Co., Act to amend Acts *re* (Ont. 1881). 200
RYLAND, Papers *re* (Quebec, 1874-75) 255-270

S

SALES of Land in British Columbia since 1870, Act legalizing Legislation, *re* (British Columbia, 1872-73) 722-726
SALE under Execution, Ordinance exempting certain Property from (North-West Territories, 1884) 933, 934
SCHOOL Law, Act to amend and consolidate (Ontario, 1874) 84
SCHOOLS, Act relating to (New Brunswick, 1871) 452-507
Reports of Minister of Justice 452, 453, 493, 497
Orders in Council 453, 461, 493, 497

PAGE.

Correspondence, Despatches, &c.,457, 461-464, 479-481, 493, 494, 501, 506-507
Memoranda of Executive Council, New Brunswick..... 464, 502
Opinion of Messrs. Duff & Weldon. 481
Memo. *re* Catholic "Parish" Schools in New Brunswick..... 489
Opinion of Law Officers of the Crown.....494, 495, 499, 506
Action of Governor General as announced by Sir John Macdonald 505
SCHOOLS, Act to establish Industrial and Reformatory (N. B., 1875).....516, 519, 520
SCHOOLS Acts, Public, Act to amend and consolidate (B.C., 1876)..... 762
SEAMEN and Shipping, Act to amend Revised Statutes, Nova Scotia *re* (Nova Scotia, 1869)..... ..... 339, 340
SHERBROOKE, City of, Act to amend Act incorporating (Quebec, 1879)... 297
SHERBROOKE Gas Company, Act to incorporate (Quebec, 1874-75)..... 251
SHEDIAC Station Wharf Company, Act to incorporate (N. B., 1875)..... 517
SIDE Lines of Streets in St. John, N. B., Act to define and establish (New Brunswick, 1877)..... 534
SIDNEY and East Bay Railway, Act to incorporate (Nova Scotia, 1873)... 347
SIMPSON Loom Company, Act *re* (Ontario, 1870-71)..... 74
SPIRITUOUS Liquors, Act in addition to Act to amend (N.B., 1871)..... 452
SPIRITUOUS Liquors, Act to regulate Sale of in Parish of Lancaster (New Brunswick, 1877)..... 527, 532
SPIRITUOUS Liquors, Act respecting Granting of Licenses for (N.B., 1884) 570
SPIRITUOUS Liquors, Act regulating Sale of, by License (P.E.I., 1877).... 875
SPRING Hill and Parrsboro' Coal and Railway Company, Act to amend Act to incorporate (Nova Scotia, 1883)..... ... 423
STADACONA Fire and Life Insurance Company, Act *re* winding up of (Quebec, 1883)..... 321
STATUTES of Ontario, Act respecting (Ontario, 1875)..... 129
STATUTES, Revised, of Ontario, Act respecting (Ontario, 1871)..... 142
STATUTES, Consolidated (Manitoba), Act respecting (Manitoba, 1881)..... 670
STIPENDIARY Magistrate and Constable for Pictou, Act *re* appointment of (Nova Scotia, 1868)..... 337
STIPENDIARY Magistrate for City of Charlottetown, Act to appoint (Prince Edward Island, 1875)..... 845
STOLEN Goods, Act respecting Restitution of (Ontario, 1882)..... 203
STREAMS Bill (Ontario, 1881). See also *"Rivers and Streams Bill"*..... 178-195
STREAMS Bill (Ontario, 1882)..... 201-202
STREAMS Bill (Ontario, 1883)..... 210-211
ST. CROIX Wharf Company, Act to incorporate (New Brunswick, 1875)... 517
ST. CUNEGONDE, Act to incorporate Town of.....
ST. FRANCIS Bridge Company, Act to extend Privileges and Powers (Quebec, 1882)..... 318
ST. GEORGE Red Granite Company, Act to incorporate.....
ST. HENRI, Town of, Act to incorporate and amend Act incorporating (Quebec, 1879)..... 297
ST. JAMES' Church, Charlottetown, Act *re* incorporation Ministers and Trustees (Prince Edward Island, 1877)..... 900
ST. JOHN Bridge and Railway Extension Company, Act to incorporate (New Brunswick, 1881)..... 555
ST. JOHN and Maine Railway Company, Act to incorporate 535-537
Correspondence..... .... 535, 537
Report of Minister of Justice..... 536
Order in Council..... 536
ST. LAWRENCE Bridge Company, Act to incorporate..... ..... 249, 254
Report of Minister of Justice..... 249
Proclamation disallowing the Act..... 254

PAGE.

St. Louis Hydraulic Company, Act to incorporate (Quebec, 1868)..... 224-229
Report of Chief Engineer of Public Works Department..... 224
Report of Minister of Justice..... 228
Order in Council..... 229
St. Margaret's Bay Lumber and Timber Driving Co., Act to incorporate (Nova Scotia, 1875)..... 370
St. Paul's Church, Woodstock, Act respecting (Ontario, 1882)..... 207
St. Stephen's Parish, Act to divide for ecclesiastical purposes (N.B., 1870) 449
St. Stephen's Parish, Act to incorporate certain districts of (N.B., 1873) 509
Sugar, Manufacture of, from Beet Root, Act to encourage (Que., 1875-75) 248
Sumass Dyking Act, 1878 (British Columbia, 1878) 788, 779, 791
Correspondence 788, 789
Petition of Mr. E. L. Derby to Governor General..... 788
Report of Mr. Attorney-General Walkem..... 789
Minute of Executive Council..... 791
Sumass Dyking Act, 1878, Act respecting (British Columbia, 1879)..... 810
Sumass Dyking Act, 1878, Act to amend (British Columbia, 1883). 821-825, 828, 830
Letter from Mr. Davie to Minister of Justice..... 821
Petition of Settlers, Matsqui Prairie 824
Report of Minister of Justice..... 828
Order in Council..... 830
Summerside, Town of, Act respecting (Prince Edward Island, 1877)..... 877
Superior Court (Quebec), Act *re* constitution (Quebec, 1869-70)..... 241, 242
Superior Court (Quebec), Act to amend Law respecting (Quebec, 1883). 320
Supply Bill (Ontario, 1868-69)..... 60-64, 65
Report of Minister of Justice..... 60, 64
Proclamation disallowing the Act 65
Supreme Court, Act to facilitate transaction of business in (N.B., 1879). 542, 543
Supreme Court (British Columbia,) Practice and Procedure of, Act respecting (British Columbia, 1879)..... 809, 810
Supreme Court in Manitoba, Act to amend Act to establish (Man., 1872). 586
Surveyors, Land, Act respecting (Manitoba, 1872)..... 583, 585
Surveyors, Land and Survey of Lands, Act respecting (Manitoba, 1875 and 1882) 615, 616, 673 675

T

Tax on Wild Lands, Act to impose (Manitoba, 1873).....589, 590, 593
Report of Lieutenant-Governor 589
Report of Minister of Justice..... 590
Proclamation assenting to Act..... 593
Tax on Wild Lands, Act to impose (British Columbia, 1873).....708, 712, 713
Report of Mr. Attorney-General McCreight..... 708
Report of Minister of Justice..... 712
Order in Council..... 713
Taxes on Property in British Columbia, Act to assess, levy and collect (British Columbia, 1876) 763, 766
Telegraph Lines in Manitoba, Act to authorize construction of (Manitoba, 1871) 577
Telephone Co., Quebec and Levis, Act to incorporate (Quebec, 1881)..... 312
Terrebonne, Village of, Act to incorporate as Town (Quebec, 1872)..... 245
Thistles, Act to prevent spread of (British Columbia, 1877)..... 770
Three Rivers, City of, Act *re* Incorporation of (Quebec, 1874-75)..... 250
Thunder Bay District, Act *re* (Ontario, 1870-71)..... 74
Toll Bridges, Act to enable Lieutenant-Governor to grant Charters for (British Columbia, 1879)..... 807

PAGE.

TOLLS on Cariboo Waggon Road, Act respecting (British Columbia, 1880) 812, 813
Report of Minister of Justice 812
Proclamation disallowing the Act 813
TORONTO City, Consolidated Debenture Act (Ontario, 1879) 153-157
TORONTO Gravel Road and Concrete Co., Act to amend Act *re* (Ont., 1881) 200
TRURO, Town of, Act to amend Act to incorporate (Nova Scotia, 1876) 376

U

UNION Fire Insurance Co., Act to incorporate (Ontario, 1875-76) 140
UNION Marine Insurance Co., Act relating to (Nova Scotia, 1875) 369, 373
UNORGANIZED Districts, Act for establishing Municipal Institutions in (Ontario, 1873) 78
UTOPIA Red Granite Co. of St. George, Act to incorporate (N.B., 1875) 518

V

VICTORIA Boring and Mining Co., Act for incorporation of (P.E.I., 1876) 877
VOTERS, Qualification and Registration Act, 1871, Act to amend (British Columbia, 1872) 703, 707, 709, 711
Reports of Mr. Attorney-General McCreight 703, 707
Report of Minister of Justice 709
Order in Council 711
VOTERS, Qualification of, Act to make better provision for (B.C., 1876) 763
VOTING by Ballot, Act to provide for, at Municipal Elections (Ont., 1875) 129, 134

W

WATERS, Navigable, Legislation involving question of (N.B., 1873) 509
WESTERN Railway of Manitoba, Act to authorize (Manitoba, 1871) 580
WHARF, Pier and Breakwater Companies, Act to continue Acts of incorporation (Nova Scotia, 1875) 368
WHITBY and Port Perry Railway Company, Act to amend Act incorporating (Ontario, 1874) 107-113
Letters of Mr. C. Draper asking for disallowance 107, 110
Report of Minister of Justice and Order in Council 110, 111
Correspondence, Despatches, &c. 112, 113
WHITEHAVEN, New Glasgow and North Shore Railway, Act to incorporate (Nova Scotia, 1873) 347
WILD Land Tax, Act to impose (British Columbia, 1872) 708, 712, 713
WILD Land Tax, Act to impose (Manitoba, 1873) 589, 590, 593
WINNIPEG Board of Trade, Act to incorporte (Manitoba, 1873) 598, 599, 602, 603
Report of Minister of Justice 598
Proclamation disallowing the Act 599
Correspondence, &c. 602 603
WINNIPEG and South-Eastern Railway, Act to incorporate (Man., 1881) 660 664
Petition of Mayor and Council of Winnipeg to Governor General. 660
Report of Minister of Railways and Canals 660
Report of Minister of Justice 662
Order in Council 663
Proclamation disallowing Act 664
WINNIPEG, City of, Act to incoporate (Manitoba, 1873-74) 604, 606
WINNIPEG, City of, Acts to amend Acts of incorporation and Act to consolidate and amend (Manitoba, 1877, 1882, 1884) 647, 678, 692
WINNIPEG Parliamentary Electors' List, 1877, Act to legalize (Manitoba, 1877) 616
WITNESSES, Examination of, Act to enable Supreme Court, Prince Edward Island, to order, &c. (Prince Edward Island, 1874) 843